

TRADE FAIRNESS HEARING: HOW CAN WE MAKE OUR TRADE LAWS WORK FOR AMERICA'S SMALL BUSINESSES

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS HOUSE OF REPRESENTATIVES

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WEDNESDAY, JULY 14, 2004

HOUSE OF REPRESENTATIVES
COMMITTEE ON SMALL BUSINESS
Washington, DC

The Committee met, pursuant to call, at 2:36 p.m., Room 2360, Rayburn House Office Building, Hon. Donald A. Manzullo presiding.

Present: Representatives Manzullo, Velazquez, Kelly, Chocola, McCotter, Udall, Christensen.

Chairman MANZULLO. Good afternoon and welcome to this hearing of the Committee on Small Business. Before we do our opening statements, I would like to extend to Congressman Boucher from Virginia the opportunity to introduce his constituent, Mr. Bassett and then Rick, you can leave, because I know you have another hearing going on. And Phil, why do you not have a seat and then Mr. Bassett, you would be on the second panel, okay? We would yield to you, Mr. Boucher.

Mr. BOUCHER. Mr. Chairman, thank you very much for affording to me the opportunity to appear before you today for the purpose of introducing a good friend of mine and a constituent. John Bassett is the chief executive officer of the Vaughn-Bassett Furniture Company. It is headquartered in my congressional district in the city of Galax, Virginia. John's company has been manufacturing bedroom furniture since 1919, and it has three factories located in the states of Virginia and North Carolina.

The majority of John's 1,250 employees reside in my congressional district in Virginia and as I indicated, the company is headquartered there. Vaughn-Bassett invests more than twice the industry average on an annual basis in equipment that provides for a highly modernized and efficient operation. And that efficiency has enabled the company's sales to triple over the course of a decade to an estimated \$168 million at the present time.

Mr. Bassett is the past president of the Furniture Manufacturer's of America. He was voted the Man of the Year in 2003 by In Furniture Magazine and has received other distinctions within the furniture industry. In addition to his role as a successful chief executive officer, John Bassett also is the chairman of the Committee for Legal Trade. That is a coalition of 27 U.S. bedroom furniture manufacturers and five employee unions. That coalition filed an anti-

dumping petition against China last fall and the preliminary ruling has been issued by the U.S. Department of Commerce in favor of that petition. It is anticipated that a final decision will be issued by the International Trade Commission before the end of this year.

John Bassett is a champion for fair trade. Locally in the western part of Virginia, we are very proud of his success, both as a chief executive officer and also as a leading national advocate for a level playing field in trade between the United States and China. And Mr. Chairman, I thank you for giving me the opportunity to say a few kind words about him today. I know you will enjoy the testimony he offers later. Thank you very much.

Chairman MANZULLO. Thank you, Mr. Boucher, appreciate it. Mr. Bassett, do you want to have a seat right in back there and then we will have you up on the second panel. Thank you, Congressman Boucher.

I would like to delay my opening statement until both members of Congress here have had their opportunity to give their statements, because of your schedules and the tyranny of the bells. You can sit next to each other, you are co-sponsors on the legislation. Phil, let us lead with you. Congressman Phil English from the state of Pennsylvania, fresh off of victory a few minutes ago on the floor on the resolution.

STATEMENT OF THE HONORABLE PHIL ENGLISH, U.S. HOUSE OF REPRESENTATIVES (PA-3)

Mr. ENGLISH. Thank you, Mr. Chairman. It is a real privilege to be here and particularly to appear with Mr. Davis, whom I must say—

Chairman MANZULLO. Phil, could you pull the mike closer.

Mr. ENGLISH. Certainly. If you do not mind my passing the compliment, as a freshman, emerged already as a leading advocate of fair trade and someone who has immersed himself in the details of some of the issues that we are going to address. I am very grateful for the opportunity to appear with and testify with him.

It is a pleasure to appear before you today on an issue that I think is relevant to the entire manufacturing base of the United States. And while I have worked on a range of legislative vehicles to enhance the way our trades laws work for American workers and companies, I am going to focus my testimony on H.R. 3716, which, in my view, is one of the most effective measures potentially to level the playing field in international trade with non-market economies such as China.

H.R. 3716, which Representative Davis and I introduced at the beginning of the year, will allow domestic manufacturers or farmers to fight illegal subsidies regardless of the country in which they occur. Currently, anti-subsidy or countervailing duty cases can only be filed against countries designated by the Department of Commerce as market economies. That makes absolutely no sense. This narrow, dubious interpretation of the law by the Department of Commerce was upheld by the courts in *Georgetown Steel Corp. v. United States* case of a number of years ago. As a result, since 1980, the Department of Commerce has refused to hear countervailing duty cases against non-market economies such as China,

because it claimed that the Tariff Act of 1930 did not require them to do so.

Thus, in effect, U.S. producers cannot fight illegal Chinese and other non-market economy subsidies until China chooses when and, indeed, if, to make the reforms necessary to graduate to market economy status. This is unacceptable at any time, but particularly so at a time when our manufacturers are in a state of crisis and we are running a trade deficit which exceeds five percent of the GDP. This WTO consistent legislation currently has the support of 58 members of the House of Representatives and it would simply clarify that the Department of Commerce is to hear countervailing duty cases against non-market economies such as China, and in certainly one famous case in Mr. Davis' district, Vietnam.

H.R. 3716 does not change any other aspect of CDV law, including the statutory requirements by which the Department of Commerce evaluates the merit of a case. Support for this legislation is not limited to the House of Representatives. Companion legislation in the Senate currently has the support of 18 Senators. Additionally, the legislation has been endorsed by no less than 21 associations and labor organizations.

Among non-market economies, China receives the bulk of attention for subsidizing its domestic industries, however, there are ten other non-market economy countries, aside from China. Congress must get this issue right and pass legislation that permits us to combat all subsidies, no matter where they occur. Just because a country has a non-market economy, it should not be beyond the reach of the U.S. Countervailing Duty law.

I would like to impress upon this Committee that the solution to combating Chinese subsidies is not to prematurely graduate China to market economy status, but rather to armor domestic producers with strong WTO consistent trade remedies.

While Congress may have designated the Department of Commerce as the administering authority for the purpose of determining which countries are to be market economies under the Tariff Act, it certainly does not take the statutory criteria for making such a determination available as bargaining chips in a negotiation between the administration and Beijing, to give China market economy status.

Many commitments were made as part of China's accession agreement to the WTO. Many of those commitments remain to be fulfilled to any satisfactory degree. Whether it is continued use of discriminatory tax regimes, control of the banking sector to subsidize core heavy industries such as steel, licensing and quota regimes, or export restraints like the one currently in place on coke and coking coal, these practices all represent commitments China made upon its accession to the WTO which have not been successfully satisfied.

China continues to adopt a mercantilist policy and we can no longer tolerate it. Of course, the most egregious practice of China's trade policy relates to currency. It is widely accepted that the Chinese currency is substantially undervalued against the dollar to which it is pegged. China has been able this peg because its currency is not fully convertible in international markets and because it maintains restrictions and controls over capital transactions.

As a result, China's exchange rate is not based on market forces. Illegal trade is not an acceptable practice or answer to competitiveness challenges and it is not appropriate for one country to gain from illegal trade at the expense of another. I would add that this statement also holds true for different sectors of the domestic economy.

Finally, I would be remiss, given the broad nature of this hearing, if I did not mention a couple of other bills that I think are important for your Committee to consider. One is H.R. 3058, the Currency Harmonization through Neutralizing Action or CHINA Act, which is a critical tool in leveraging China to play by the rules. Specifically, it pressures China to float its currency or face retaliatory tariffs. This legislation has the support of 85 members of the House.

Chairman MANZULLO. How are you doing on time, Phil?

Mr. ENGLISH. I am about finished and I thank the gentleman.

Chairman MANZULLO. Okay.

Mr. ENGLISH. The Trade Law Reform Act provides a broad set of remedies to deal with holes in our existing trade laws. Let me finish by again highlighting that the ability to fight illegal, non-market economy subsidies is of paramount importance. This issue, perhaps more than any other over the next few years, will make or break the possibility of a level playing field for employers when dealing with China. And I thank the Chairman for giving me the opportunity to lay out broadly some of my views on this topic.[Congressman English's statement may be found in the appendix.]

Chairman MANZULLO. Thank you. Our next witness is Congressman Artur Davis, from Alabama's 7th Congressional District. And thank you for coming to our hearing. Look forward to your testimony.

STATEMENT OF THE HONORABLE ARTUR DAVIS, U.S. HOUSE OF REPRESENTATIVES (AL-7)

Mr. DAVIS. Mr. Chairman, thank you for doing me the courtesy of inviting a freshman Democrat to appear before your Committee. I am honored to be here. Let me greet my friend from New York, the ranking member of the Committee, and I ask unanimous consent that my written statement be submitted into the record.

Chairman MANZULLO. All the written statements of all the witnesses will be accepted into the record.

Mr. DAVIS. Mr. Chairman, let me begin by first of all complimenting my good friend from Pennsylvania. It has been an interesting and sometimes contentious 108th Session of the United States Congress. We found a lot of things as Democrats and Republicans that we are fighting about. I am proud of the fact that this is a bipartisan piece of legislation. I am proud of the fact that my friend from Pennsylvania has joined forces with me and numerous individuals in the House and Senate on both sides of the aisle to try to craft a responsible solution to a problem that is affecting many of our districts.

This is an uncertain time in America's economy. There is a lot of anxiety in your state of Illinois and my state of Alabama. A lot of people feel themselves dislocated, if you will, by globalization.

They wonder if the rules mean what they say they mean and they wonder exactly what their government is doing to stand on their side or on their behalf.

There have been and will continue to be spirited debates, even on the floor of the House this afternoon as we think about Australia. Debates over the direction in which we ought to move. I think we ought to be able to agree, though, on some very simple premises. The first one is this, that we do have a rule structure in this world. A lot of it has been formed by the WTO and we ought to find a way to respect that rule structure.

The second thing is that rules have to be fair. What is good for the United States has to apply to our competitors. And third of all, the rules have to be such that our people understand them. Our businesses and our working men and women have to be able to look at the rule structure that we have and think that it is fair from their standpoint. I know you deeply believe in that.

This bill satisfies all three of those criteria. Congressman English described it very, very well from a substantive standpoint. Let me make this larger observation. This bill is not an act of protectivism. It is not a bill that confers unfair advantages on American industry or workers. It does not trade one wrong for another wrong.

What it simply says is that we live in a world where we are trying to move past barriers. We live in a world where we are trying to move past the subsidies that can distort the market and if the rules are good enough to apply to market economies, simple fairness dictates that they should apply to non-markets. Simple, basic fairness.

Second of all, this bill will make a very important statement to the people in our country. WE have learned in the last several years that our military security is not as impregnable as we once thought. We know that we face all kinds of threats that we did not foresee four years ago. And as we talk about our security, I even heard it said on the floor of the U.S. Senate last night, that our traditions are an important part of that security. That may or may not be the case, but there is no question that the economic security of our people is vital. Our people are economically insecure when they cannot count on their government to insist that the rules are played by fairly.

And make no mistake, I have an enormous amount of confidence in America's industries and America's workers. I have a very strong belief that they can compete with any competitor anywhere in the world. But they cannot do so if their hands are unfairly tied behind their back. Right now there are numerous economies around this world, non-markets, China, Vietnam, some of the old Soviet countries, who are using subsidies to provide an unfair leg up for their industries. Indeed, that is the very nature of the economy in some of these countries.

The question is whether we sit idly by or whether we stand up to that trend. And the way that we stand up for it is to give us the power to do what we do with markets, impose countervailing duties.

Let me make one final point about this bill. It should be understood that this bill does not require the United States to do anything. This bill does not contain a single duty, does not impose a

duty, does not tie the hand of the executive. What it does, though, is to free up the hand of the executive in the Commerce Department. What it does is to say in effect that a remedy that has worked very well for market economies ought to be applicable to deal with the new threats from China.

In conclusion, I would simply say that this bill does provide a chance for this Congress to act as one. There have been precious few instances when we have found bipartisan common ground in the last 18 months. This is a chance for us to do it. I am proud of the support that has formed around this bill from the U.S. Chamber of Commerce to the Steelworkers to a number of other entities. The reason that they are standing together, I believe, in conclusion, is because they want to make a promise to America's workers and businesses that if you do your part, you make yourself productive. If you play by the rules, we will make sure those rules are respected around the world.

So with that spirit, I certainly thank you for your incredible leadership on this issue in the state of Illinois and thank all the members of this Committee for their interest in being here today.

[Congressman Davis' statement may be found in the appendix.]

Chairman MANZULLO. Well, sign me up. I think I am already a co-sponsor on the bill. Does anybody here have any questions that they want to ask of our two colleagues? Okay, if not, thank you very much for your testimony, we appreciate it. If the staff could bring in the next panel. Thank you, Phil, thanks, Art.

While that is going on, I will give my opening statement. Again, good afternoon and welcome to the hearing on Committee on Small Business. A special welcome to those who have come some distance to participate and to attend this hearing. I have a more comprehensive opening statement at the table, but for the sake of time, we will summarize our remarks.

Today, the Committee will hold a hearing on trade fairness, in order to examine how our trade laws might be improved to help our small businesses. There is general consensus that freer trade is the best means of achieving greater prosperity and is a win-win for all countries involved. However, we realize that many nations are not fully transparent and oftentimes do not play by the same rules.

Thus, we need trade remedy rules to enable our producers to compete on equal footing with their global competitors both here and abroad.

Small businesses played a vital role in the tremendous growth over the last few years of both overall exports and the number of export firms. In 2001, almost 97 percent of U.S. exporters were small or medium sized businesses. Sixty-three percent of small business exporters sell to only one market and why is that? One key reason is that U.S. exporters still face substantial tariff and non-tariff barriers overseas to create an unequal playing field. Today, in fact, we just voted on another market opening agreement to further knock down trade barriers. This afternoon, we will vote on the trade agreement with Australia, which will bring zero tariffs on manufactured goods.

We are also honored today to hear from Representatives Phil English and Artur Davis on legislation to further improve our trade

remedy that would allow countervailing duty trade cases to be filed against non-market economies like China and Vietnam. Assistant Secretary of Commerce for Import Administration, James Jochum had hoped to be here today, but was unable to join us because he is preparing to travel to China to chair an important meeting to discuss with officials from the Government of China on the need for fundamental reforms within their economy. We look forward to hearing from him in the future.

I would urge you to look at the table. There is a list of the Administration's accomplishments on enforcing our trade laws. Without objection, I will include that material into the record.

We are now going to hear from the private sector witnesses who compete on a global scale. They will discuss their experience with trade remedy laws, how they can be further improved and talk about their industries and how those industries are important so as to come under special cognizance by Congress and the Administration.

Free and fair trade works for all parties involved, particularly for small business exporters. It is the best way to insure future prosperity and wealth creation. I now yield for an opening statement by the gentlelady from New York, Mrs. Velazquez.

[Chairman Manzullo's statement may be found in the appendix.]

Mrs. VELAZQUEZ. Thank you, Mr. Chairman. Now more than ever, the United States' ability to remain competitive in today's fast growing global market is critical. The global economy has significantly grown, so much that 80 percent of world economic consumption takes place outside of our country. In order to guarantee that our nation remains a world leader and it is able to work efficiently within the world market, we must make sure current trade laws are properly examined so all businesses can take advantage of the international market.

Our country's small firms rely heavily on their ability to produce goods to be used worldwide. Ninety-seven percent of exporters are small businesses. That is why it is so important to carefully weigh the effects trade policies have on our nation's small enterprises. While there is no doubting the ability of our nation's exporters to access international markets, if they have a level playing field, which is why all possible solutions should be examined.

Not only are U.S. exporters facing a struggling economy here at home, but they face tough competition abroad. In today's hearing, the bill H.R. 3716 will be looked at. This legislation allows small manufacturers to sign CD petitions to be filed against non-market economies. While a plausible solution, these trade remedies are only one possible solution to the problem.

It is necessary to explore all existing trade laws to insure they protect small exporters in the international arena. In addition, trade laws need to be enforced under the Bush Administration. This administration has failed to make a habit of taking into account the needs of small businesses, estate, trade agreements and set new roles for negotiation objectives. Small firms reap significant benefits from the removal of tariff barriers. However, they also have a strong interest in the elimination of the red type, which many times hinder their exports.

If the Bush Administration truly cared about small businesses, then they will make it a priority to negotiate trade agreements that do not place unfair burdens on small firms. Today's trade laws should allow us to intervene with major trading partners and should be the most up to date solutions to address small business needs within the global market. Just as the case with the FSC-ETI regime, some of the U.S. trade laws are in need of a revision and do not fully address the needs of small businesses as they stand right now.

The most important factor in all of this is that our nation's small exporters have the tools they need to access foreign markets and remain a top competitor. Rather than focusing only on these laws, it should also be clear small businesses are able to access the tools they need in order to succeed. It is not secret. Our nation's entrepreneurs have difficulty accessing technical assistance and capital, especially when small business programs that provide these services are continuously cut in the Bush Administration's budget.

In order for this sector to create the jobs that we need here at home while remaining competitive abroad, these needs must be addressed in our trade policies. It is my hope to find a solution that not only creates a level playing field for small exporters, but also allows them to be as competitive as possible.

This solution should allow our nation's 23 million small businesses, the economic engine of our economy, to have free and fair access to the global marketplace, no matter what the circumstance is.

I look forward to hearing the testimony of today's witnesses and I thank you, Mr. Chairman.

[Congresswoman Velazquez' statement may be found in the appendix.]

Chairman MANZULLO. Thank you. The testimony will be determined in length—can you get that to work? Thank you. The five minute clock that is up there and I would appreciate it if you could follow it as closely as possible.

What I would say to the witnesses, those of you that have the small businesses, what is important here is that America hears your story. Your entire testimony will be placed into the record, including the recommendations as to what to do. But what we are trying to do with this hearing is that there are at least three entities that have been involved in dumping cases. Tell us your experience, tell us the cost. If you could do that within five minutes, I would appreciate that. But it is most important to get that out first as the first part of your testimony. Suggestions on what to do, if you have time, put that into your five minutes, otherwise, we can do that in terms of the questions, okay?

Our first witness will be Frank Vargo, VP, International Economic Affairs, National Association of Manufacturers. And Frank, I look forward to your testimony.

STATEMENT OF FRANK VARGO, NATIONAL ASSOCIATION OF MANUFACTURERS

Mr. VARGO. Mr. Chairman, thank you very much. Congresswoman Velazquez, Congresswoman Kelly, always a pleasure to see you. Mr. Chairman, thank you for scheduling this very important

hearing. It is particularly important to the National Association of Manufacturers, because 10,000 of our 14,000 members are small companies and many of them are affected by trade, both on the export side and on the import side. And we have a huge trade deficit. It is something that is of great concern and we need to address.

A lot of people do not recognize how unlevel the playing field is in the world. Perhaps some members of the Committee are not aware that, right now, two thirds of all of our imports that come into the United States, two thirds, are totally duty free, no duty whatsoever. The average U.S. duty on manufactured goods is less than two percent. This is not really a trade barrier, you know, it is barely a speed bump.

The answer is not to put barriers around the United States and go back do Smoot Hawley all over again, the answer is to get other countries to reduce their barriers. I hope everyone is going to vote for the Australia agreement today, because it does that. I call it the manufacturer's agreement, because it eliminates 99 percent of Australia's duties on our exports overnight and we will pick up about \$2 billion, \$2 billion of additional exports.

But trade also has to be viewed as having a level playing field. We have to see that other countries do not manipulate their currencies, because currencies have a huge effect on our trade. And also that when there are unfair trade practices, that we have the ability to offset these. The subsidies and countervailing measures code in the WTO, for example, permits countervailing duties to offset subsidies. And, in fact, that is how we are being hit under the European Union under the FSC and ETI.

The United States, by its own practice, has not applied countervailing duties to exports of non-market economies since 1984. It is nothing that is in the U.S. law, nothing in the WTO or the old GATT. It is something that we have done to ourselves, because the Commerce Department said, well, you know, we cannot measure a subsidy in a non-market economy.

Well, a couple of things have changed. One of them is that in 1994 and subsequently, the World Trade Organization redefined subsidies and made the definition much more precise. And when China joined the WTO, it expressly agreed to be bound by the subsidies and countervailing measures code. In fact, it agreed that if you can't really measure the subsidy in China, you can find alternative means. So China fully anticipates that this was part of its joining the WTO. And every other WTO member in the world can, at present time, apply countervailing duties to exports from China and other non-market economies.

Now, H.R. 3716, the English-Davis Bill, if I can call it that, would provide a congressional fix to clarify that Congress intended that countervailing duties could be applied, whether or not the export came from a market economy. The NAM, through its policy mechanisms, looked at that. A number of members have different views, but we all considered it and the National Association of Manufacturers decided, yes, we should support this legislation. We should support it because if there are subsidies, and a lot of our members feel that there are subsidies from non-market economies, companies should have their right to this tool. They should not feel

that they have to sit back and say, well, you know, there are subsidies, but there is just nothing I can do about it. That is not right.

So we do support this legislation. We hope it will pass. Now I want to stress, though, we think this is part of a positive relationship with China. There is nothing negative or protectionist to it. In fact, to the degree that our companies and the public and the Congress see that China has to follow the rules and the rules are there, this is going to increase support for trade.

We believe that this is very important and we hope that everybody in this Committee will support it and we will see this become part of U.S. law. It is the biggest missing component.

Now, China is very important in our overall trade relationship and China has to comply with its WTO obligations and we have been pressing hard on a couple. I do want to commend China for just announcing that it is going to end the discriminatory value added tax that it had that really was preventing American semiconductors from being able to compete in China, and that they agreed to do so without going through a two year WTO case. They saw they were wrong and they are unilaterally removing it and coming into compliance. That is what we need more of and I believe that this law can contribute to that.

I have other points, Mr. Chairman. I am hitting five minutes. I would be happy to take whatever questions the Committee has. Thank you.

[Mr. Vargo's statement may be found in the appendix.]

Chairman MANZULLO. Our next witness is John Bassett, III, president and CEO of Vaughn-Bassett Furniture. He has already been introduced by his congressman and Mr. Bassett, we look forward to your testimony.

STATEMENT OF JOHN BASSETT, III, VAUGHN-BASSETT FURNITURE

Mr. BASSETT. Thank you, Mr. Chairman. I would like to thank Congressman Boucher for that kind introduction.

Chairman MANZULLO. John, could you pull the mike closer and speak directly in it? Thank you.

Mr. BASSETT. Is this close enough? I would also like to thank the entire Committee for inviting me to appear before you today. Also, we appreciate the testimony of Congressman English and Davis. We support that bill to extend countervailing duties remedies to subsidized imports from China and other non-market economies.

The Committee for Legal Trade is now made up of 31 bedroom furniture manufacturers and five labor unions located in 18 states. Industry has been devastated by a flood of dumped imports from China. In the last three years, China import bedrooms jumped 224 percent, or about roughly \$1 billion. As a result, we have lost over 35,000 wood furniture jobs.

We filed our anti-dumping petition on October 31, 2003. It is the largest anti-dumping investigation ever conducted against China. The ITC made a preliminary determination in January that our industry was materially injured and the Commerce Department issued a preliminary ruling last month that China is illegally dumping bedroom furniture. Final rulings will be made by December.

Based on our experience, we offer the following recommendations. First, the United States Government should do a better job of informing companies of their rights under United States trade laws. We only learned of the anti-dumping laws of this country after paying \$75,000 to a law firm for a study. I have read that the government spent millions to promote the new \$20 bill. I know how to spend a \$20 bill, but I wish the government had done more to make me and other manufacturers aware of their rights under our trade laws.

Second, the Department of Commerce is doing the best it can with the resources it has available. It is obvious to us, however, that the Department investigative team is underfunded and understaffed. There are hundreds of Chinese exporters of bedroom furniture who may be violating our trade laws. The Commerce needs more resources to handle the investigation of so many exporters.

Third, there is a wide range of degree of dumping that is occurring among Chinese furniture manufacturers. But the Department only selected seven Chinese companies to investigate, a list that excluded some of the worst dumpers. Clearly, the Commerce Department either needs more resources to investigate more foreign exporters, or the petitioners should have a greater say in who is investigated.

Fourth, a decision on the administrative review of the some of the most egregious Chinese dumpers will not occur until the summer of 2007. Some manufacturers, particularly the smaller ones, simply will not be able to survive that long while awaiting this decision. And given its limited resources, Congress may never individually investigate some of the most egregious dumpers. Again, petitioners should have more control over which exporters are investigated.

Fifth, the Commerce Department should also be proactive and self-initiate any dumping investigations in appropriate circumstances, especially when small businesses are facing the brunt of injurious imports from China.

Sixth, with very little notice, the Commerce Department held a hearing that set up a study to determine whether China should be given market economy status. China pegs its currency. It subsidizes, owns or controls many of the furniture factories. It manipulates the system in virtually any way it wants until its companies win.

When China joined the WTO in 2001, China agreed to be designated a non-market economy until 2016. The United States should not truncate this 15 year period and undermine the bargain struck with Congress. The European Commission has recently confirmed that China remains a non-market economy. It would be a travesty for the United States Government to grant China market economy status now.

Mr. Chairman, thank you for this opportunity. I would be glad, delighted, to answer any questions.

[Mr. Bassett's statement may be found in the appendix.]

Chairman MANZULLO. Appreciate your testimony. Our next witness is Tom Hopson, president and CEO of Five Rivers Electric Innovations out of Greenville, Tennessee and we look forward to your testimony.

**STATEMENT OF F. TOM HOPSON, FIVE RIVERS ELECTRIC
INNOVATIONS**

Mr. HOPSON. Thank you. Good afternoon. My name is Tom Hopson and I have been in the television industry for over 25 years. For the past five years, I have served as president and CEO of Five Rivers Electronic Innovations, LLC, a television manufacturing company located in Greenville, Tennessee. Five Rivers purchased the Greenville factory from Philips Consumer Electronics in 1997 and since that time we have continued on the tradition of building Magnavox and Philips color TVs in the United States.

While there are several multinational companies that manufacture televisions in the United States, such as Sony, Toshiba, Sony and Matsushita, Five Rivers is the only remaining U.S. owned company and the only company that has been willing to speak out publicly in opposition to the flood of Chinese imports. We currently employ approximately 400 workers in our television plant.

The principal topic of my testimony today centers on the serious difficulty that we have faced as a result of the flood of Chinese TV imports. As you may know, the U.S. television industry has experienced competition from abroad over the past 30 years and has consolidated and changed ownerships. Since taking over the plant from Philips, however, Five Rivers has maintained a high level of efficiency and based on our extensive experience in this industry, we were able to make a satisfactory return until a couple of years ago.

Our situation changed dramatically for the worse in 2002. Our newest competitors, television producers in China, were different from competitors we had been facing in the past. Between 2001 and 2003, Chinese imports increased over 3,000 percent. In less than two years, imports from China caused our business to change from a thriving one to a struggling one.

The impact of the substantial capacity in China became particularly noticeable in the U.S. marketplace during the first half of 2001. And by the end of 2002, imports from China had become a dominant low-price force in the marketplace, creating a major disruption in the market.

Five Rivers, along with other U.S. producers, were forced to lower their prices on all makes and models of our televisions just to stay in business. But lowering our prices was not enough. As we reduced our prices, Chinese producers would undercut our prices as the volume of imports continued to skyrocket. We experienced massive reductions in sales orders from our customers. These reductions severely impacted the entire television industry, as U.S. television manufacturers and the suppliers lost orders.

Corning, Thomson, to name a few, have stopped producing television glass and television picture tubes in the United States. Our company, as well as many others, was forced to lay off production workers and management staff.

In the end, we were left with two simple options. We go out of business or we try to fight the imports through the use of the U.S. trade laws. So, in May of 2003, we chose to fight and stay in business. Five Rivers joined with two unions, the IBEW and the IUE/CWA to file an anti-dumping petition with the U.S. Department of Commerce and the International Trade Commission in May of

2003. According to a March 3, 2004 article in the People's Daily, the other multinational producers, such as Sony, Toshiba, Sanyo, refused to come forward to support this case because, according to the press reports, they had been intimidated into silence by the Chinese Government.

In April of this year, the Commerce Department found that the Chinese imports were being dumped and the International Trade Commission concluded that the U.S. television industry was being injured. This decision, we hope, will once again turn the tide for our industry as a whole and for our company in particular.

Most of you have heard about the potential changes in the television industry, including new technologies and digital broadcasting. In the years ahead, we believe the television industry will continue to evolve. We have the capabilities and plans to modernize and make direct view, LCD plasma TVs and prediction TVs, such as LCOS and DLP. If left unchecked, however, the Chinese imports would certainly put an end to the U.S. television industry.

Effective enforcement of our dumping laws can help insure that even small business like ours can compete with the Chinese imports. Thank you.

[Mr. Hopson's statement may be found in the appendix.]

Chairman MANZULLO. Thank you. Our next witness is Wallace Wes Smith, who will be introduced by his member of Congress, Congressman McCotter.

Mr. McCOTTER. Thank you, Mr. Chairman. It is a pleasure to have Wes here. We had a nice conversation in my office and he is probably the only man grumpier than I am these days and I think you are going to get a good earful of it and we need it. Thank you for coming all the way, Wes.

Mr. SMITH. Thank you, Congressman.

Chairman MANZULLO. Well, that is quite an introduction. We will be disappointed if we did not hear something grumpy. So, go to it. I know that you are very reticent and that you lack opinions. Just feel comfortable.

Mr. SMITH. Okay.

Chairman MANZULLO. Thank you. Look forward to your testimony.

STATEMENT OF WALLACE SMITH, E&E MANUFACTURING CO., INC.

Mr. SMITH. Thank you, Mr. Chairman, and members of the Committee.

Chairman MANZULLO. If you could pull up your mike a little closer and talk directly into it? Thank you.

Mr. SMITH. My name is Wes Smith and I am the president of E&E Manufacturing in Plymouth, Michigan. I am appearing today on behalf of the Consuming Industries Trade Action Coalition Steel Task Force, to discuss the ways U.S. trade laws can be made to work better for consumers of steel and other types of raw material.

E&E is located in Plymouth, Michigan and is a world class leader in metal joining technology. It meets the needs of our world class automotive customers by manufacturing heavy gauge stamped metal fasteners with progressive dies. Also, we do plenty of high value added assemblies. E&E was founded in 1963 by my

father and provides meaningful employment to over 280 dedicated employees. Steel compromises 50 percent of our total cost of producing these products.

E&E Manufacturing and our primary trade association, the Precision Metalforming Association, were very active supporters of the CITAC Steel Task Force in the recent battle over the Global Safeguard Tariffs on steel, and we are grateful that, with the support from many on this Committee, they were lifted in December 2003. While I do not intend to rehash that issue today, the tariffs do serve as a good example of what we have come to call the collateral damage that can occur to the economy when our trade laws get out of balance.

Let me state that from the outset that we fully appreciate the need for fair trade remedy laws to protect U.S. businesses from unfair trade practices by foreign countries or producers seeking to gain access to lucrative U.S. markets. It is entirely appropriate that industries suffering from such conduct and that the recourse should be swift and predictable. However, all too often in our judgment, trade remedies intended to provide protection for one industry cause damage to other industries, particularly so-called downstream industries.

This is because our trade laws do not require, and in some cases do not permit, the Department of Commerce and the U.S. International Trade Commission to consider the total effects of trade policy decisions on the overall economy. I believe my company can compete with anybody in the world, given a level playing field. And that term, a level playing field, is like a coin with two sides. It means protection from unfair trade policies by offshore competitors, but it also means protection from unintended consequences of U.S. policy.

Let us take the case of steel, which is the primary raw material input for my company, amounting to about 50 percent of my total cost of production on average. What we need and what all U.S. steel consuming manufacturers need, is access to an adequate, stable supply of globally priced steel. I do not want to pay any more for steel than necessary, but the actual cost is less important than whether I can buy steel for the same total cost as my foreign competitors. If I can, then I can use improved productivity, better tooling design and automation to offset other disadvantages, such as wage rates. If not, then I am at a fundamental disadvantage and because steel is such a big part of my cost, I cannot overcome the difference.

When the Global Safeguard tariffs were put into place in March of 2002, the International Trade Commission staff analysis, which formed the basis of the recommendations to the President, was that 40 percent tariffs on imported steel would result in steel price increases of four to eight percent. Mr. Chairman, I am not an economist, but given that the U.S. steel industry produces only about 75 to 80 percent of the total steel consumed in this country, it is hard to imagine how anyone could conclude that imposing a 40 percent increase in the price of imported steel would not have a far greater impact than four to eight percent.

In fact, as we now know, prices shot up 40, 50, 60 percent in some cases. Steel was hard to get, contracts were broken and the

steel-consuming industries suffered far more negative consequences than anyone anticipated.

In fact, we are still suffering from the effects of the tariffs. Some seven months after removal, current prices for steel in the U.S. are higher than virtually anywhere in the world, due in part to the disruption caused by the tariffs and delivery schedules are substantially longer than normal. If this situation persists, it will lead to increased offshoring of U.S.-based manufacturing.

So what can we do to avoid these effects? In our view, we must find the balance between providing protection for U.S. industries facing unfair foreign competition and making sure that protection does not create more economic damage than good.

Specifically, we suggest that U.S. trade laws should require an analysis of the total impact of any decision on the overall economy, including downstream impact.

Industrial consumers of a product should have equal standing with domestic producers and importers in trade cases.

Products that are not made in the U.S. or are in short supply should not be subject to trade remedies.

Finally, when trade remedies are implemented, there is virtually no opportunity for those remedies to be altered in an expedited fashion if a changed circumstance occurs. This means that if there are unintended consequences, the industries negatively affected by those remedies must suffer far too long before changes can be made. For this reason, we believe an expeditious review mechanism for affected industries would provide a timely remedy against the unintended consequences of trade remedies.

I support H.R. 3716, which will allow U.S. companies to seek a remedy against illegal subsidies by countries such as China. Passage of this legislation sponsored by Congressman Phil English will provide an important tool imposing countervailing duties on non-market economies and hold our trading partners accountable for their actions.

Lastly, returning to the price of steel, several countries have placed export controls on critical raw materials such as coke and scrap. China has controls on coke, while Russia, Venezuela and the Ukraine have export controls on scrap. While the E.U. has addressed these issues, the U.S. has been slow to act. Thank you.

[Mr. Smith's statement may be found in the appendix.]

Chairman MANZULLO. Thank you, appreciate that. The next witness is my constituent, Doug Bartlett, the owner, president of Bartlett Manufacturing in Cary. The printed circuit board folks that stopped by my office and attempted to explain to me how you go from a copper plate to a printed circuit board. I said, you know, I appreciate you coming in, but I know of Bartlett Manufacturing in my district and within two weeks I was there. Doug took me on a tour of his facility as, say with you, Wes, and convinced me of the critical importance of the printed circuit board industry, not only as to the final product but as to the raw material that makes it.

Doug is a graduate of the Naval Academy and a former Marine officer and, yes, sir, we are looking forward to your testimony. Thank you, Doug.

**STATEMENT OF DOUGLAS BARTLETT, BARTLETT
MANUFACTURING CO, INC.**

Mr. BARTLETT. Thank you, Mr. Chairman.

Chairman MANZULLO. If you could pull the mike up closer and speak directly into it? There you are.

Mr. BARTLETT. I need to get longer arms. Thank you, Mr. Chairman and members of the Committee, for allowing me to speak about my industry. I joined my family's business 20 years ago. My father started this industry, in this industry, 52 years ago. It is the oldest family owned circuit board business in the United States and my father was a pioneer in that industry.

Our industry is that of the printed circuit board. I have an example of a circuit board here. It is an industry, it is a high tech industry and also an example of what it takes to make up a circuit board. Although this is a simple example, there are ten layers of electronics in here. Our products are the mounting platforms for the electronic devices that run pretty much everything in the industry. It is the heart of the electronics industry, along with the semiconductor industry.

Without our product, electronics is nothing more than a bag of components that have no function at all. The circuit board industry and the semiconductor industry basically are the blueprints. These are the blueprints of how every electronic device works. It gives us the key of what happens.

We are a high tech industry. We are an important industry. We provide products for the military, aerospace, homeland security and we also provide the products that go basically into every industry. It supports the welfare of people in our country.

I want to go through a couple of charts just to show you what has happened to our industry. This happens to be the revenues of Bartlett Manufacturing Company. It has dropped dramatically as you can see from near \$20 million down to \$9 million. Employment levels have gone from 160 people down to here in 98. It is currently 87 and continues to deteriorate. If we take a look for high tech, let us take a look at California.

In California there was a peak of \$2.7 and \$2.8 billion. Look at it now, \$1.2 billion. This is not a depression, this is not a recession. It is a devastation of a critical injury.

Next chart, please. If California were not enough, let us take a look nationwide. One more. Let us go to the volume. This shows ten billion. It was called 11 billion at the height of our industry. Now we are struggling at five billion of which we guess 10 to 15 percent is already just brought in from China and resold.

So what has happened to our industry? We did not forget how to build circuit boards in 2000. Thanks, I will skip the last one for a minute. We did not forget how to build circuit boards. Low cost products have become available from China. They have acceptable quality and delivery and we have faced this foreign competition in the past. We faced it from Japan in the 80s and we faced it from Taiwan in the late 80s, but now we have comparable products at half the price.

In this high tech industry, low labor alone cannot justify what is happening. These are not the results of free market forces. These are the direct and significant results of various government, Chi-

nese Government subsidies, particularly currency manipulation and export subsidies. No amount of ingenuity or proximity in the market can offset these government practices.

Rigid laminate, the raw material that we use to build our circuit boards, is rigid material. The supply is critical to our industry. Ten years ago, U.S. facilities dominated the U.S. market. There were over ten people, ten factories that supplied this to the United States. At the end of this year, there will be zero manufacturers in this country of this product. Zero. We got that information yesterday. The last factory will be shut down.

Again, these market forces are in play and are driving up our prices. U.S. manufacturers will pay a 10 percent increase per month for the remainder of this year to get this product for this most critical industry. As if Chinese Government subsidies are not enough, we are in a squeeze play with our primary supply line. The implications are clear. China is using predatory trade practices to destroy our PCB market. And because of Washington's indifference and sometimes encouragement, China is succeeding.

I would like to very rapidly talk about this product. It is a sonabouy board. My company makes this. It goes into sonabouys that are dropped in the ocean to track and detect foreign submarines. We have had this contract for ten years. We were notified that we are not competitive. The buyer gave us offshore pricing. My industry experience tells me this is Chinese pricing.

Please show the next chart. If we take a look at—one more—if we take a look at what happens, the offshore pricing has been given, adjusted due to unfair currency and manipulation, adjusted due to rebates, and you will see that the outcome is that we are competitive. If you take away the subsidies, we can compete.

It should be obvious to the members that it does not make sense to have the Chinese build products that go into the products for our national defense. I think the implication to our national security and homeland defense should be obvious.

Very briefly, I was asked what U.S. trade laws in action have benefitted my industry? There are none to date that have benefitted my industry. I was asked what needs to be strengthened? To save our PCB industry, until our government gets serious about fighting unfair subsidies, enforce the Buy America provisions for printed circuit boards, to save our industry. Give us time. And to move from 50 percent to 80 percent in two years and 90 percent in three. Spend times and funds to provide awareness of the trade options to small and mid-size business, but you must deal with the Chinese subsidies. We need a comprehensive approach that eliminates the Chinese subsidies quickly. Small businesses do not have the time or the money to ask for help under the current system. Your system, as it stands today, cannot work for me.

My industry is divided into big companies and little companies. The big companies have packed up and gone to China. The little companies remain here and are waiting to see what our government is going to do to help provide security to our country and protect this most vital industry. Thank you, Mr. Chairman.

Chairman MANZULLO. When I visited you, there were two U.S. manufacturers of that fiber board, now there are none?

Mr. BARTLETT. Yes, sir.

Chairman MANZULLO. That was just about six weeks ago?

Mr. BARTLETT. We had a meeting late yesterday afternoon with the last major supplier who told us that he will shed his U.S. facility by the end of this year. And the one remaining facility in the United Kingdom, I would consider a close ally, will be shed by the end of 2005. That leaves all the facilities, major suppliers of this product, in the Asian based market. I see concern there.

Chairman MANZULLO. Thank you. Our next witness is Bill Klinefelter. Welcome back, Bill. Good to see you again.

Mr. KLINEFELTER. Mr. Chairman.

Chairman MANZULLO. Legislative and Political Director of the United Steelworkers of America. And we look forward to your testimony.

STATEMENT OF WILLIAM J. KLINEFELTER, UNITED STEEL WORKERS OF AMERICA

Mr. KLINEFELTER. Mr. Chairman, I will be very brief, because you know the story better than I do. You hear it every single day. I will say this, since 1970, someone who has held this position with the United Steelworkers of America, has come before this Congress year after year after year after year and talked about the predatory practices of our trading partners on the American steel industry and the need to do something about it, the need to have strong trade laws, the need to have those trade laws enforced, the need for people to have access to those trade laws. We have done that since at least the 1970s.

And there are several gentlemen at this table today who are now beginning to feel the consequences of the fact that we do not have strong trade laws in this country, we do not have responsive trade laws in this country. I must say, whether you are union or non-union, I welcome you to the fight. Because it is the fight for the future of America and whether we are going to have an industrial base in this country, it is as simple as that.

I believe this Committee has got to make a strong statement to this administration about keeping the trade laws in place. I was at DOHA when Mr. Zelig put our trade laws on the table. Once they are on the table, they are open to negotiation. Once they are open to negotiation, there is only one place to go and that is to be weakened.

We have to find ways so that people can afford to do these cases. The union knows this full well. We were involved in the 201. We spent the legal costs on that 201 and as these gentlemen know—I think one gentleman said that they spent \$76,000. I wish that was all we had to spend when we did the 201, but I tell you that these cases are very, very expensive.

And right now, the Commerce, Justice and State Department Appropriations Bill, we have asked the International Trade Commission begin tracking and reporting on inquiries from small and medium sized businesses for getting help with enforcement of anti dumping laws against imports, including those from China and India.

Now, we build a records. Let us see what people need, let us see what we can do in order to fulfill the needs of these people. We need for the administration to stick with what it does. I have heard

the gentleman talk about 201. Well, 201 is gone, that tune is an old tune, and the price of steel is at record highs. So somebody should turn their attention to what the culprit is. The culprit is China. China is the biggest importer of steel, the biggest producer of steel, the biggest importer of iron ore, the biggest importer of coke in the world and they continue to grow. They grew at the rate of 23 percent a year.

And look, China is going to make steel. That is their future. That is what they are going to do and they are going to control the world market and the price of steel is going to go up. And one of the reasons the price of steel is going to go up is because there are only 90 million tons of capacity in the United States and in the last several years, we retired 17 to 19 million tons of capacity.

You know, we keep retiring capacity and other people keep adding it. If you want to talk about subsidies in terms of steel, let us talk about the subsidy negotiations at the OECD. We just went through two years of negotiations on subsidies on steel and not one of our trading partners was willing to move one inch on any of their subsidiaries.

The Europeans want their environmental subsidies to meet their Kyoto round obligations and so do the Japanese. The Indians say that they need subsidies as a developing country. They need special subsidies to protect their steel industry. The Brazilians want banking subsidies so that they can invest in steel in the next four years in Brazil.

No one went to the table and said, we want to give up our subsidies, which is what a negotiation for subsidy is all about, to give them up, not to cause exemptions for other countries that have subsidies.

And who came to the table with no subsidies? The United States of America. But we left those negotiations, those negotiations are off now at least until after the election and all those subsidies are in place. All our trading partners keep those subsidies and life goes on.

Finally, I guess I would say that there have been a number of cases that have involved China. And I think that a number of companies have gone to the administration and let me just say to three companies in particular. There was a pedestal actuator company in New Jersey who sought 421 relief against the Chinese. This was something that was specially negotiated with the Chinese to address surges of exports from China. The ITC found in favor of the pedestal company in New Jersey, found in favor of the wire garment hanger industry in Ohio, found in favor of the ductile iron fittings company, also in Ohio. All of these companies, the ITC found that there were surges of imports from China. But this remedy is in the hands of the president and the president alone and the administration refused to act.

Someone has got to send a shell across the bow of our trading partners. I hold this document—this is going to sound like the 1950s. The National Trade Estimate Report on Foreign Trade Barriers. Fifty-six countries are reported on in this report, from big countries to little countries. But this is not the full report. I did not bring the full report. I did not want to make my assistant carry it.

This report tells you the barriers that are there and page after page, it says the United States will continue to negotiate to try to lessen these barriers. We are going to negotiate to lessen the subsidies for Aerobus? These European countries and that company is not a new company. They need no subsidies—okay, I am sorry, Mr. Chairman, I will close. But the fact of the matter is, year after year, these things are on the record. We do not take anybody to the WTO. They take us at the drop of a hat.

[Mr. Klinefelter's statement may be found in the appendix.]

Chairman MANZULLO. Thank you for your unimpassioned testimony.

Mr. KLINEFELTER. These guys got me going, you know.

Chairman MANZULLO. We like to bring in the animated witnesses here who have got a real story to tell.

I would like to ask one question to John Bassett and Tom Hopson. You two guys got involved and hired lawyers. Tell us about that, tell us about the cost? Mr. Bassett, you paid another price in terms of what has happened in the industry. Tom, want to go first?

Mr. HOPSON. Well, the cost of filing this action exceeded \$1 million and now, with an ITC vote of 5 to 0, which one of the members recused herself, with a 5 to 0 slam dunk, now we face the Chinese appealing. So we are still forced to spend more and more money to get what, you know, the Commerce Department and ITC found very evidently that there was nothing.

So in order to keep defending—I feel like I am fighting the Chinese Government, along with the U.S. Government to some degree, but exactly the Chinese Government. Not Chinese companies, it is the Chinese Government. But it is either that or fold up and we send all our people home.

Chairman MANZULLO. Your company is the only one involved in this group, is that correct?

Mr. HOPSON. Well, we have two labor unions that are involved.

Chairman MANZULLO. That is still a lot of money for a small amount of people.

Mr. HOPSON. We had some creative solicitation for funding.

Chairman MANZULLO. Bake sales?

Mr. HOPSON. It was difficult, let us put it that way.

Chairman MANZULLO. Mr. Bassett, tell us your experience?

Mr. BASSETT. Well, Mr. Chairman, our association did not know about the trade laws in this country, that is what I was referring to. And we spent \$75,000 just to find out what the law said. This is not what we spent on fighting the petition. We spent \$75,000 to find out what the law said in this country.

Our budget, we have hired King & Spalding, which we consider the finest law firm to defend us and file the petition. That budget was \$1.5 million and we are far, far, far beyond budget. We are opposed by 21 different law firms on the other side. There is one on our side, there are 21 on their side.

Let me tell you how we feel and all of our companies feel in the furniture industry. First, we know that we have a fiduciary responsibility to our stockholders. Secondly, we know we have a legal responsibility to our country. WE do not intend to be an Enron or World Com, Mr. Chairman. WE are going to be responsible cor-

porate citizens, but we also have a moral responsibility to our employees. Why should our employees lose their job through illegal trade? That is why we are filing this petition and we are doing it on behalf of the people who work in our companies and it is expensive.

Chairman MANZULLO. Now, the part of the remedy that you are seeking is somehow that the government itself would provide and I do not want to use the word law firm, but at least some minimal assistance for research, etc., so at least you know you have a case before you engage a law firm.

You have how many companies with you, John?

Mr. BASSETT. We have 31 companies in our petition.

Chairman MANZULLO. Okay, and Tom, you just have you and your two labor unions?

Mr. HOPSON. Well, we actually started out with a large group, not only television companies, but our first meetings, we had a large group of people. Some television companies and supply companies. And very quickly, they started falling out because in our industry, most everyone is owned by multinational companies. All the other companies had factories in China and they fell out one by one. Then the final one just came and said, we cannot afford to stay in this or we could suffer for business in China. So it is too huge a market to take a chance.

Chairman MANZULLO. Then my next question is, with Wes Smith and Bill Klinefelter. You are on different sides of this steel tariff issue. You both had very compelling testimonies. Both extremely factual. One in favor of the tariffs, one opposed to the tariffs. Wes and Bill, how do you resolve that difference? Is there anyway in between on this?

Mr. SMITH. Well, from my standpoint—

Chairman MANZULLO. Do you want to pull the mike closer to you?

Mr. SMITH. Well, from my standpoint it is either that we do need to find a way to resolve this issue or else they better be nice to China, because that is going to be the only place they are going to be able to sell steel to. The steel consumers will be out of business.

We have no pricing power, no ability to push these costs upward. If you are talking of steel right now, at the end of the 201, we were paying roughly 21 cents for just vanilla hot rolled material. We just last month paid 38 cents. We cannot absorb that.

Chairman MANZULLO. So it is yet to peak?

Mr. SMITH. Exactly. We cannot absorb that, we cannot pass that on, because our customers have choices and those choices are to invest in low cost countries, such as China, who manipulate and subsidize their industry. It is really a fire sale for these fellows right now. All the foreign direct investment is coming from large multinationals and we need to have those folks here, healthy. I am not concerned about metal stampings coming in from China. My major concern is having large components in modules that were once made in the United States no longer being made, being made offshore and I will not find out until it is time for me to requote a replacement business. And I will not even have that opportunity, that work will have simply disappeared.

Chairman MANZULLO. China is building 19 fully integrated mills as we sit here now. Bill, do you have a response?

Mr. KLINEFELTER. Yes, I think the 201, as rightly implemented by the President of the United States, is a tool to save an industry that is under attack by its foreign competitors and the 201 covers all steel mill products from all countries and it does it in a comprehensive manner for a period of time.

Initially, the administration put the 201 in for a three year period, gradually reducing tariffs over that period. But then when they examined it in the mid-term review, they looked at the state of the industry. We did not think they rightly looked at the state of the industry. They looked at the state of the industry and they made a decision to pull the 201 and it is gone.

So, the problem with the price of steel is not the 201 anymore. The problems with the price of steel is a demand of steel in the rest of the world. And part of the overall solution to this is to have some stability in the world steel market. And the only way you are going to get that is if you have a subsidy regime for the entire steel industry in 5sssthe world and you have serious capacity talks about capacity not inside the United States, but in other places, the former Soviet Union and places like that, which is unproductive and unenvironment and really should be shut down.

Steel is a global problem. Right now, it only is going to take a solution to stabilize the basic steel industry and the price of steel here in the United States and the rest of the world.

Chairman MANZULLO. Doug, the fiber board, what is the technical name for it again?

Mr. BARTLETT. Laminate.

Chairman MANZULLO. Laminate? That is a composite with copper on both sides?

Mr. BARTLETT. It is a woven cloth that is dipped in resin and then pressed with copper on both sides.

Chairman MANZULLO. So what you are saying is that there would no longer be a U.S. manufacturer of this product, is that correct?

Mr. BARTLETT. More precisely, there will not be a major supply facility. There are many manufacturers who are small, creating specialty products in the United States. But there will not be any significant facility left in the United States that can provide for capacity and volume production.

Chairman MANZULLO. Well, here comes a dumb question. What happens if you cannot get this? What happens if the overseas companies just choke the market and nobody in the United States can buy this material?

Mr. BARTLETT. That is already happening. Du Pont has told the U.S. market that they will not accept anymore material for flex products—it is a specialty product in the United States—for the balance of 2004. We ceased to build flex products and the product has to be imported from other countries.

Chairman MANZULLO. What is flex product?

Mr. BARTLETT. Flex is a board. This is a rigid board. A flexible board is one that can be bent, such as ribbons on a printer. The flip phones, there is a connector there that is a flexible board.

We leave ourselves at the mercy of our allies as some people defined them today to provide us that product. It will be the end of the electronics industry as you know it today, as far as our ability to rely on our own supply lines. It is a bad situation for military and homeland security.

Chairman MANZULLO. Frank, I have a final question. There was a decision on a dumping action on windshields made in China, the article that appeared in the China Daily News, whatever it is, about six weeks ago. And the ITC had ruled in favor of imposing what was a modest tariff. Then, obviously, for finding injury, then the Court of New—Court of International Trade, which is a District Court, ruled that the ITC had made an incorrect decision, lowered the tariffs to less than one half of one percent, therefore the companies did not have to put up a bond on it.

But in the article, it was quoting the Chinese as saying that at present, in the automotive industry, they are making for U.S. manufacturers \$10 to \$20 billion worth of automotive parts, but that their goal, by 2010, was to ship to the United States between \$70 and \$100 billion worth of U.S. automotive parts to be incorporated into our cars.

That, along with we are seeing the direct orders coming out of some of the big three, forcing the original equipment manufacturers to go to China as part of their business plan. Where is this going to stop? I mean, how long before guys like Doug and Wes, who make automotive parts—is there any relief? You have been around this for a long time.

Mr. VARGO. I have, Mr. Chairman.

Chairman MANZULLO. Impart your wisdom to us on what trends you see and what remedies, if any, are available?

Mr. VARGO. Well, I have not seen those numbers. I have seen the imports of auto parts from China now are about \$2 billion and that is rising rapidly. But that is still about one percent of the market. Not that that is not a reason for concern, because they are growing rapidly.

As we look at our trade position, one of the key things that is important here is to see that we are able to compete. You know, I hear company after company that is a member of the NAM and I have heard it repeatedly at this table saying if the playing field is level, we can compete. The first thing we have to do is to see that the field is level. And we hear a lot of stories about subsidies coming out of China. I do not know if they are true, Mr. Chairman, but they need to be investigated. And if there are subsidies, they need to be offset. That is the importance of the legislation we have been discussing today. And maybe there is a misunderstanding and they are not subsidizing. I do not know.

The currency, the currency we can see from the fact that China needs to buy about \$10 billion, \$12 billion a month of American dollars to keep their currency from appreciating, that the currency is very undervalued and controlled, and that is not right. There are other aspects as well, so we need to put a focus on this.

Now I think that we have seen in recent months, I mentioned already, the discriminatory 14 percent tax on American semiconductors that has been taken care of. We are seeing more initiative out

of USDR and Commerce. In part, this reflects the funding that they received.

You have been a part of that. Chairman Wolfe for the Appropriations Committee has been an important part of that and we need to keep pressing in that direction.

Chairman MANZULLO. Appreciate that. Mrs. Velazquez?

Mrs. VELAZQUEZ. Thank you, Mr. Chairman and thank you all for being here today. This has been quite an important hearing.

Mr. Klinefelter, I just would like for you to help me understand why is it that if we have our trade laws, we cannot get this administration to enforce some of those trade laws? What would you say to this administration to encourage it to fight and to step up to the plate and fight for the U.S. industries?

Mr. KLINEFELTER. Well, Congresswoman, I believe we have to ask the administration. I mean, on the 421 cases that I discussed, I mean, these companies went through the process that was established when China agreed getting into the WTO. They went to the ITC. The ITC ruled in their favor, but the administration just would not rule in their favor.

You know, recently the AFL-CIO, you know, lodged a complaint in regards to human and worker rights in China and the administration just refused to play. You know, this idea that we have to keep these foreign policy relationships pure and simple with the Chinese. But, on the other hand, if there is no industry left here in the United States, what are we going to do?

Mrs. VELAZQUEZ. Mr. Vargo? The U.S. China Economic and Security Review Commission criticized this administration for failing to pressure China on a number of issues, including the subsidies and tax incentives that benefit Chinese companies at the expense of U.S. borders. The Commission has gone as far as to ask Congress to approve legislation that will force the administration to take some action.

Why do you believe that the administration is reluctant to take action against China?

Mr. VARGO. Well, candidly, I have a different view. I do not see a foreign policy reluctance to take action on China. And at the NAM, we pressed very hard on a number of goals that we want to achieve. One of them was to stop China from implementing this wireless network standard that would have required American companies to partner with Chinese companies and transfer their technology to China. Now that is patently absurd and the administration worked hard on it and they got it stopped.

Another one of our key priorities was this discriminatory value added tax where the Chinese charged a 17 percent tax on imported semiconductors but they give you a 14 percent rebate if you move your factory to China. Again, patently absurd under the WTO rules. And we pressed the administration and they began a WTO case and worked with the Chinese and we do not even have to go to the WTO, they rolled it back. So, where they are focusing, I think they are doing the job.

Now one thing, and it came out as I was preparing my testimony and talking to some companies and I have heard it at this table, as well. Not enough companies know of the existence of the WTO

legal trade remedies that we have. Mr. Bassett said it cost him \$75,000 to find out that there was such a thing as dumping laws.

Well, that is not ridiculous at all. There is no reason he should be genetically imprinted knowing that we have dumping laws. I think we get too carried away inside the Beltway thinking, oh, everybody in the United States knows all about this.

One further point along these lines. We had a meeting of the NAM's China working group a couple weeks ago and a gentleman who is very concerned about trade came to Washington for that meeting. As we were talking, he said, you know, what the government needs to do is set up a trade complaint hotline, where small companies can take their trade complaints. Great idea. Trouble is, it was done six, seven years ago, when I was at the Commerce Department. I started it. Nobody knows about it.

The point was made that \$20 million or so was spent promoting the new \$20 bill. The Commerce Department, as I recall, is not allowed to go out and advertise what it has. Now, maybe that is something that Congress ought to look at.

Now, one outcome of this hearing that I hope you will consider significant, is that I have decided that the NAM is going to link onto all these hotlines and websites and we are going to go out to our 14,000 members and we really are going to promote the existence of these and see if we can generate some more business for these. It is not going to solve the problem, but it will help.

Mrs. VELAZQUEZ. Mr. Vargo, earlier this year, during a Senate Finance Committee hearing, our U.S. Trade representative, Zelig, stated that he did not support pursuing a World Trade Organization dispute settlement case against China over the country's currency practices, in part because it could be difficult to prove that China is in violation of WTO laws. Do you agree with that assessment?

Mr. VARGO. I was part of the fair currency alliance that prepared that case and I would rather not discuss a view as to whether we think this would be difficult to prove or not. In our view, it is a violation—

Mrs. VELAZQUEZ. But you just said before that you do agree that there is a manipulation of the currency by China?

Mr. VARGO. Oh, yes, and the WTO says, you know, you should not manipulate your currency. But the point we got from the administration on that case, or at least from the Treasury Department, was that they, as a result of that, the visibility that we have given to the Chinese currency, they have begun working with the Chinese. They said that they believe they are making progress and the filing of this case at that time would move things back.

So we agreed to work with them and we have been doing that. Our goal is still to get that currency revalued significantly just as quickly as possible.

Mrs. VELAZQUEZ. Congressman English's bill would allow CDV cases against non-market economies like China, we agree on that, right? And this legislation follows efforts made last year by various groups. The last Senator—from Ohio?

Chairman MANZULLO. Voinovich.

Mrs. VELAZQUEZ. Thank you, to introduce a resolution saying that Congress supports the use of CDV cases against non-market

economies. How would you respond to the Department of Commerce's arguments that CDV subsidies cannot, in a conceptual manner, be identified in a non-market economy?

Mr. VARGO. Well, I am not a trade lawyer, but from what I have seen, I disagree with that view and I think that since the subsidies and countervailing measures agreement was modified in 1994, Commerce's old reasoning from 1984 does not hold anymore.

But in any event, it seems to me that if there are subsidies, that they should be countervailable, whether they are in a non-market economy or not. I do not dispute they might be more difficult to prove, I do not know. But I do know that our members should have the right to seek to have those subsidies offset.

Mrs. VELAZQUEZ. Bill, would you like to comment?

Mr. KLINEFELTER. I agree with the gentleman from NAM. I think he can identify those subsidies and I think those subsidies are prevalent and they exist all through the Chinese economy.

Mrs. VELAZQUEZ. Why do you think that Department of Commerce is taking that position?

Mr. KLINEFELTER. Because we have a gigantic trade deficit with China. China is now a gigantic trading partner. I beg the gentleman's pardon, but foreign policy is riddled through this. I mean, Condoleezza Rice just got her hat handed to her in China for the administration's alleged policy on Taiwan. We are going to walk softly with the Chinese over foreign policy issues, because of the Taiwan issue and because we want them to intervene in North Korea.

So it is not always about trade. Sometimes the foreign policy issues intervene big time.

Mrs. VELAZQUEZ. Thank you. Thank you, Mr. Chairman.

Chairman MANZULLO. Just a couple of things. In the reports that I have been given by the Department of Commerce, they have taken on over 680 market access and compliance cases. Over a comparable period, the previous administration conducted about half as many cases. In fact, I was with Don Evans just about two hours ago and the Department of Commerce is very sensitive to what this Committee has been doing. This is our 64th hearing on manufacturing. Sixty-four hearings in three years and I am going to be on Lou Dobbs tonight. And I said, you know, there is some good stuff coming out of Department of Commerce. We are still very much concerned, however, that Phil English's bill needs to get out front so we can whack China, to treat them in a fair manner.

But in terms of the sound dollar coalition, the people that are very much interested in the RMB floating to the U.S. dollar, I received a call about two weeks ago from John Snow, the Treasury Secretary who was all excited. The word never got out that there is an agreement with China in the Chicago Mercantile Exchange to exchange derivatives, to trade derivatives. That is the first step as far as I can see, and Mrs. Velazquez and I both sit on the Banking Committee, so we have an opportunity to try to pick up a little bit more of our knowledge in that area. That is the first attempt that I see towards getting the RMB afloat.

The big problem that I see is in terms of how long can the companies last? I am just, Doug, I just want to tell you, when I was with you, what, about a month ago? And you said that only 20 per-

cent of the U.S. consumption of this board is manufactured in the United States, I thought that was shocking. Now you are telling me and, of course, we believe you 100 percent because you know this better than we do, that none of this is going to be manufactured in the United States.

There are remedies whereby the Department of Defense can get involved to say that this item is absolutely necessary for defense. And Doug, if you could write me a letter explaining really in your testimony, or does it occur in the addendum to your testimony, about when you talk about this going down to zero manufacturers?

Mr. BARTLETT. Yes, briefly it does.

Chairman MANZULLO. We will send that over to the Department of Defense to say, you know, there is a remedy out there possibly under, I think it is Section 7C of the Export Administration Act which talks about—of course, that talks about imports coming in. When you have no manufacturer left—I am sorry, the Defense Production Act. Whether or not there is a remedy available there. Bill?

Mr. KLINEFELTER. Mr. Chairman, there is also a methodology in the Commerce Department under the Trade Act, where they can conduct an investigation on whether a product is critical to the national security—

Chairman MANZULLO. That is correct.

Mr. KLINEFELTER. —and then impose a remedy and I am drawing a blank on it.

Chairman MANZULLO. Well, the Defense Production Act, as opposed to the Export Administration Act, where somebody files a petition with the Ways and Means Committee?

Mr. KLINEFELTER. Yes, exactly. We took that route in steel—

Chairman MANZULLO. That is a 331. All right, it is like bingo with all these numbers.

Mr. KLINEFELTER. But that is a route you can take if there is something that is critical.

Chairman MANZULLO. We are definitely going to do that, Doug, based on your testimony. Phil, if you could follow up. Talk about copper. We had the opportunity to meet with the copper people. In fact, we held two hearings on steel and the second hearing on steel talked about the shortage of copper and nickel, which are obviously both used to make brass and also for this application here.

On the short supply petition, amazing, amazing, amazing is that the day the petition was filed, the Chinese backed off and stopped buying copper scrap on the open market, which greatly reduced the price of copper, what, Dana, 30 percent? Twenty percent? Twenty to 30 percent and so when these remedies are used, what I would suggest, Doug, in your profession with the folks that you have left is that you ponder the efficacy of getting a top notch law firm. It is going to cost a tremendous amount of money. We will be glad to work with you on it, on the petitions that are necessary. We will forward our concerns immediately to the Department of Defense to try to get some type of acknowledgement that this particular item is no longer being made in the United States. Go ahead.

Mr. BARTLETT. Mr. Congressman, as you know, we have an industry association that has large manufacturers and small manufacturers and the small manufacturers have broken away to an independent organization because the large manufacturers obvi-

ously moved their factory to low cost producing areas where they can sell, they can build low and sell high, without the interest of American society or American workers.

Not all large corporations but certainly in our industry, that has happened. We have been very active trying to get this study done. We have not been embraced yet by the members of Congress who control that, although we are knocking on their doors actively and we will continue to do so. I think that is very important.

You would think the Department of Defense would be very much on our side. There are already provisions to buy American. And I am amazed that when it comes down to price concerns, the Defense Department, like many companies, will prefer to buy offshore than to think through the whole process. I am amazed that we do not get more support from the Defense Department. And actually, I am not so sure that they are our allies in this effort. But we will pursue that.

Chairman MANZULLO. Well, we will work with you on that. I think the first hearing that we had, the very first hearing of which I was chairman lasted four and a half hours, when we found out that the Army was buying the black berets from the Chinese. And I have one of those black berets in my briefcase. In fact, I think I showed it to you, Doug, when I was out there. Everybody has seen that. I mean, it is worn thin now, because it is Exhibit A. There are 614,999 of the Chinese made American berets that are sitting in a warehouse in Mechanicsburg, Pennsylvania because Mrs. Velazquez and I got very animated that our men and women in uniform simply were not going to be wearing those berets.

Your testimony from all of you has been extremely compelling. I do have one question. Tom, I was not even aware that TVs were made in America. Tell us about your company and why we do not know more about that? What type of TVs do you make?

Mr. HOPSON. Well, currently we make TVs for companies like Samsung, Akai, Philips, Magnavox. We build, over the years, we built a lot of different brands. There are actually five, six television factories in the United States.

Chairman MANZULLO. Is this assembly, are you more assembly with foreign parts?

Mr. HOPSON. Some of both. There is some assembly. I used to run a plant that also had a PC board plant. We used to make boards. We could buy material, our company could buy material cheaper, you know, overseas than we could buy the raw material in the United States. And that is not just material, finished boards were coming out of, I think, Singapore back then. A different type of material, but at that time, I worked for Philips and the decision was, hey, we can buy the finished printed circuit board cheaper than we can buy the raw material in the United States.

Chairman MANZULLO. You did not have much choice?

Mr. HOPSON. Yes. But Sony has a huge plant outside of Pittsburgh. There are two plants in Tennessee, actually, ours and Toshiba has a plant.

Chairman MANZULLO. These are conventional home TVs?

Mr. HOPSON. Yes, a lot of projection TVs, you know, the higher tech TVs now. You know, in the 80s, we went through NAFTA. I don't know if you know, but everybody in the world has factories

in Macillas and they all went to the border zones. And we competed with those people back in the 80s. You can go today and most—our dumping case was on 21 inch and above, but you could go today and you cannot find a 13 inch or a 19 inch TV that is built in the United States, because the tube supply is gone. And that is what is happening to the whole industry now.

Corning shut down glass plants. Those people are losing their jobs. Philips is shutting down plants and moving them. You know, everyone that had picture tube plants, so you lose that. That is a major cost of your set, major cost of transportation.

But competition, that is not the problem. It is the unfair competition. We competed with Mexico, like I said, and that was not a problem. We found our niche. We knew we could not build 13s and 19s as cheap as you could in Mexico with labor costs as low as they were. But we knew the transportation costs for the 25 inch and above offset the labor costs. So if we kept working on our efficiency and doing the right things, we would not worry about the 13s and 19s.

But, you know, from China what we saw is projection TVs that were selling at major retailers for less than our material costs. And we knew they had to ship it, you know. We know what a container costs to ship across the sea, lead times and everything else. A lot of people believe it is labor, but it is not. It is not all labor.

But, yes, I think the television industry, to your first question, a lot of people think televisions are made in Japan. You know, Japanese have not made televisions forever. It has been a long time since they have. But most of the TVs in the United States either were, until the last few years, either made in the Mexican border region or the U.S. Then, of course, the surge of imports started coming in 2001.

Chairman MANZULLO. Then I have one last question. The hearing has gone longer than I anticipated. Mr. Bassett, I have been reading a lot about you and we have been working a long time to make sure that everybody here was free to come on this day. You are doing something in your business in terms of extraordinary efficiency that you are bragging about and rightly so, in terms of going head to head with the Chinese. Would you share that with us?

Mr. BASSETT. Well, the first thing we do is we invest very heavily in our plants. We are not asking for a bail out and we are not asking for a hand out. If we cannot compete fairly, we do not deserve to be here. We have to do our part.

And so first, we invest twice, sometimes three times what all our competitors invest, to make sure that we stay efficient.

Chairman MANZULLO. You invest in new machinery, etc.?

Mr. BASSETT. All new machinery. We go around the world, looking—we tell our people, we are going to put the finest tools in their hands that we can find.

But my personal opinion, Mr. Chairman, I think the most underused asset in America today is people. We communicate with our people. We take our products, we take the Chinese products, we put them out in front of our people, we explain to them exactly what we have to compete with. We then design products that will compete with the Chinese and we ask our people, do you want to

join us as partners to compete in this market? And overwhelmingly, our people on their own volition, have become more efficient.

They want to compete. What they are looking for, in my opinion, is leadership and management that is willing to compete. My personal opinion, we, in many ways, have a void of leadership. We have to get out in front of our people and set the example. Now once you tell them that and you set the example, it is amazing what American workers can do. It is amazing.

But now, we cannot overcome an unfair playing field. So everybody in my organization knows I am up here today. They want to know, what are you going to say? And another question they asked me is, are they going to listen? We are willing to do our part, I will promise you that. Just give us a field that we can play on.

Mr. VARGO. Mr. Chairman?

Chairman MANZULLO. Yes, Frank?

Mr. VARGO. If I could build on that for one second, because it is a very important point. And Mr. Bassett is to be commended for his management, his initiatives. A lot of other companies are doing the same thing.

What I really see coming out of this hearing is nobody here is saying protect us. We are saying we need a level playing field and we can compete. But they are also saying, to compete, we compete on our cleverness, we compete on the skill of our workers, we compete on the basis of our productivity and innovation.

And Mr. Chairman, one thing we have to do in looking to our future is to protect and promote more rapid growth of innovation. To take the best practices that firms have and spread them to more, like through innovations such as the MEP program. We need to have the R&D tax credit. We need to realize that our future depends on developing more intellectual property, protecting it and putting it to use. Mr. Chairman, I hope that you and Congresswoman Velazquez will have some hearings on it.

Chairman MANZULLO. Well, we have MEP up from 31 to 109?

Mr. VARGO. 109.

Chairman MANZULLO. Mrs. Velazquez, did you have—

Mrs. VELAZQUEZ. I just wanted to share with you, I agree with you, we need to level the playing field. There is a void in terms of leadership and we need to have leaders who will go there and fight to protect our U.S. industry. The books and the laws are there. We need to enforce it. And MEP, well, we need to send an important message to the administration, that it is not enough to say that we support small and medium sized firms. We have to provide some assistance, technical assistance and resources, money. And they cut, in this budget, they cut that money from MEP. They cut the money for access to capital for the 7A loan program that we were on the floor just fighting—

Chairman MANZULLO. We screamed enough and both got restored. Again, thank you very much. This hearing is adjourned.

[Whereupon, at 4:17 p.m., the Committee was adjourned.]

DONALD A. MANZULLO, ILLINOIS

NYDIA M. VELÁZQUEZ, NEW YORK

Congress of the United States
House of Representatives
107th Congress
Committee on Small Business
2360 Rayburn House Office Building
Washington, DC 20515-6315

Opening Statement

Donald A. Manzullo, Chairman

How We Can Make Our Trade Laws Work for America's Small Business

Hearing before the U.S. House of Representatives
Committee on Small Business

Wednesday, July 14, 2004 at 2 p.m.
2360 Rayburn House Office Building

Good afternoon and welcome to this hearing of the Committee on Small Business. A special welcome to those who have come some distance to participate and to attend this hearing. Today the Committee will hold a hearing on trade fairness in order to examine how our trade laws might be improved to help our small businesses.

There is general consensus that freer trade is the best means of achieving greater prosperity and is a "win-win" for all countries involved. However, we all realize that many nations are not fully transparent and oftentimes do not play by the same rules. Thus, we need trade remedy laws to enable our producers to compete on an equal footing with their global competitors both here and abroad.

Over the past year, US exports have grown almost 15 percent and in May are at a record high, \$97 billion, in part because we are opening markets and reducing overseas barriers. Also, the U.S. dollar is now floating at more normal levels. In this Congress, we have already passed Free Trade Agreements with Chile and Singapore, and we will vote this week on one with Australia, and soon on one with Morocco.

Small businesses played a vital role in the tremendous growth over the last few years of both overall exports and the number of export firms. In 2001, almost 97 percent of U.S. exporters were small or medium-sized businesses. Still, this accounts for less than one percent of all small businesses in the U.S. And 63 percent of small businesses that do export sell in only one market. Why is this?

One key reason is that U.S. exporters still face substantial barriers overseas that create an unequal playing field. Typically, foreign tariffs are several to many times that of the U.S. average of two percent. Just as, or more important, are non-tariff barriers where countries hide behind standards or do not adequately protect intellectual property rights all of which combines to hinder our exports. Countries frequently interfere in the free flow of trade, such as by directly or indirectly subsidizing their exports and these practices confer an unfair competitive advantage to their exporters that handicap small U.S. firms.

While China moves towards a market economy, it continues discriminatory practices that distort the free trade that even some in the Chinese government concedes should be reformed for their own good. For example, China pegs its currency to the U.S. dollar and still controls foreign investment. This policy lowers the prices of goods from China, benefiting U.S. consumers but hurts some U.S. industries that compete with those products. It not only diminishes their production and employment but in some cases virtually wipes out entire sectors – including some critical to our defense industrial base.

Last September, I introduced House Concurrent Resolution 285, which calls on the Administration to vigorously enforce U.S. trade laws dealing with such practices, encourage freely floating exchange rates and review tools to counteract currency manipulation. So far, there are over 50 co-sponsors of that legislation and we're seeing some progress on this issue. Representative Phil English introduced a similar bill that garnered over 85 cosponsors.

We are honored to hear shortly from a bipartisan panel of distinguished witnesses, my colleagues and good friends, Representatives Phil English and Artur Davis, on legislation to strengthen our trade laws to better assist small businesses. I am proud to join 57 other Members in co-sponsoring H.R. 3716 that would allow countervailing duty trade cases to be filed against non-market economies like China and Vietnam to combat illegal government subsidies. If these countries do not make measurable improvements towards becoming market economies by reducing government subsidies in key industries and also want to engage in global trade, then Congress should expeditiously pass H.R. 3716 into law.

Assistant Secretary of Commerce for Import Administration James Jochum had hoped to be here today, but was unable to join us because he is preparing to travel to China on Friday to chair a meeting to discuss with officials from the Government of China on the need for fundamental reforms within their economy. I, and I am sure other members of the Committee, look forward to hearing from Assistant Secretary Jochum on the outcome of his meetings, and to continuing to work closely with the Administration on these important issues.

What are the Administration's achievements in this area? I would like to submit for the record the Commerce Department's two page list of enforcement accomplishments, but let me cite three facts:

- Since 2001, they have taken 680 cases, on average double the number of market access and compliance cases as the previous administration.
- Almost 300 intellectual property rights enforcement actions has been conducted, also twice the record of the previous administration.
- Almost 200 new dumping and subsidy cases have been initiated, again more than in the previous administration.

Most recently, we have seen trade enforcement action with China where they've agreed to stop rebating taxes on semiconductors, a preliminary anti-dumping case on bedroom furniture, and a successful trade case on televisions.

Sometimes I hear from small companies that using trade remedy law is expensive and hard to do. Small businesses should be aware of their ability to request the International Trade Commission to initiate a Section 332 investigation to examine the competitive conditions in the U.S. and foreign markets for a particular industry, which can form the factual basis for filing a trade case. Also, small businesses suffering from unfair foreign trade practices should also be aware that Congress changed the trade remedy law a few years ago to allow the higher tariffs won in successful trade cases to go not to the U.S. Treasury but to the petitioners, thereby helping to offset some of the costs associated with filing a trade case. Finally, small businesses negatively impacted by imports can obtain an International Trade loan from the Small Business Administration, which in our SBA reauthorization bill can also be used to refinance existing debt.

Free and fair trade works for all parties involved, particularly for small business exporters. It's the best way to insure future prosperity and wealth creation. I now yield for an opening statement by the gentle lady from New York, Ms. Velázquez.

STATEMENT
of the
Honorable Nydia M. Velázquez, Ranking Democratic Member
House Committee on Small Business
Hearing on “Trade Fairness Hearing: How We Can Make Our Trade Laws Work for
America’s Small Businesses”
July 14, 2004

Thank you, Mr. Chairman.

Now, more than ever, the United States’ ability to remain competitive in today’s fast-growing global market is critical. The global economy has significantly grown – so much that 80 percent of world economic consumption takes place outside of our country.

In order to guarantee that our nation remains a world leader, and is able to work efficiently within the world market – we must make sure current trade laws are properly examined, so all businesses can take advantage of the international market.

Our country’s small firms rely heavily on their ability to produce goods to be used worldwide – 97 percent of exporters are small businesses. That is why it is so important to carefully weigh the effects trade policies have on our nation’s small enterprises.

While there is no doubt the ability of our nation’s exporters – most of which are small and medium sized businesses – to access certain markets needs to be addressed. However, all possible solutions should be examined. Not only are U.S. exporters facing a struggling economy here at home, but they face tough competition abroad.

In today’s hearing, the bill, H.R. 3716, will be looked at. This legislation allows small manufacturers to sign countervailing duties (CVD) petitions to be filed against “non-market economies.” While a plausible solution, these trade remedies are only one possible resolution to the problem.

It is necessary to explore all existing trade laws to ensure they protect small exporters in the international arena. In addition, current trade laws need to be enforced under the Bush administration. This administration has failed to make a habit of taking into account the needs of small businesses as they draft trade agreements, and set new goals for negotiation objectives.

Small firms reap significant benefits from the removal of tariff barriers. However, they also have a strong interest in the elimination of the red tape which many times hinders their exports. If the Bush administration truly cared about small businesses then they would make it a priority to negotiate trade agreements that do not place unfair burdens on small firms.

Today's trade laws should allow us to intervene with major trading partners, and should be the most up-to-date solutions to address small business needs within the global market. Just as the case with the FSC/ETI regime – some of the U.S. trade laws are in need of a revision, and do not fully address the needs of small businesses as they stand right now.

The most important factor in all of this is that our nation's small exporters have the tools they need to access foreign markets, and remain a top competitor. Rather than focusing only on these laws, it should also be clear small businesses are able to access the tools they need in order to succeed.

It is no secret our nation's entrepreneurs have difficulty accessing technical assistance and capital – especially when small business programs that provide these services are continually cut in the Bush administration's budget. In order for this sector to create the jobs we so desperately need here at home, while remaining competitive abroad – these needs must be addressed in our trade policies.

It is my hope to find a solution that not only creates a level playing field for small exporters, but also allows them to be as competitive as possible. This solution should allow our nation's 23 million small businesses – the economic engine of our economy – to have free and fair access to the global marketplace, no matter what the circumstance is.

I look forward to hearing the testimony of today's witnesses.

Thank you.



Written Testimony of

The Honorable Phil English
United States Representative
3rd District, Pennsylvania

Before

The House Small Business Committee

Trade Fairness Hearing: How We Can Make Our Trade Laws
Work for America's Small Businesses

July 14, 2004

Good afternoon Chairman Manzullo and Ranking Member Velázquez. It is a pleasure to appear before you today to testify on a matter of critical importance not only to small businesses, but to every employer and worker.

As this Committee knows, the topic of this hearing is not new, and is one that I have been working to address since being elected to Congress in 1994. While I have introduced a range of legislative vehicles to enhance the way our trade laws work for America's employers, I will focus my testimony on H.R. 3716, among the most effective measures to level the playing field in international trade with nonmarket economies (NMEs) such as China.

H.R. 3716, which I introduced with Representative Davis at the beginning of this year, will allow a domestic manufacturer or farmer to fight illegal subsidies regardless of the country in which they occur. Currently, countervailing duty cases (CVD), or anti-subsidy cases, can only be filed against countries designated by the Department of Commerce as market economies. This narrow, dubious interpretation of the *Tariff Act of 1930* as amended by the Department of Commerce was upheld by the courts in *Georgetown Steel Corp. v. United States*. America's employers can no longer wait for effective tools to police our domestic market from illegally subsidized imports. The circumstances have changed dramatically since the Georgetown Steel case and Congress must enact new legislation to make our trade remedy toolbox effective in the 21st century.

The heart of the issue relating to subsidies in nonmarket economies, and the reason H.R. 3716 must be enacted before Congress adjourns this year, is that since 1980, the Department of Commerce has refused to hear countervailing duty cases against nonmarket economies such as China, because it claimed that the *Tariff Act of 1930* did not require them to do so. Thus, in effect, U.S. producers can not fight illegal Chinese and other non-market economy subsidies until China chooses when, and indeed if, to make the reforms necessary to graduate to market economy status. This is unacceptable at any time, but particularly so at a time when our manufacturers remain in crisis.

That is precisely why I introduced H.R. 3716. This legislation, which currently has the support of 58 Members of the House of Representatives, would simply clarify that the Department of Commerce is to hear countervailing duty cases against non-market economies such as China and Vietnam. H.R. 3716 does not change any other aspect of CVD law, including the statutory requirements by which the Department of Commerce evaluates the merit of a case.

CVD cases against NMEs are not a strange or impossible concept. This type of trade remedy is fully consistent with our World Trade Organization (WTO) obligations and should apply to both non-market economies as well as market economies.

Among nonmarket economies, China receives the bulk of attention for subsidizing its domestic industries. However, there are 10 other nonmarket economy countries aside from China. While these countries may not be receiving the same level of attention as China, this does not mean that other nonmarket economy countries will not have the same injurious and destructive effect on U.S. industries as they progress toward graduating to market economy status. For this reason, it is important that Congress get this issue right and pass legislation that allows us to combat all subsidies no matter where they occur. Whether a country is a market economy or a nonmarket economy, it should not be beyond the reach of U.S. countervailing duty law.

I would like to impress upon this Committee that the solution to combating Chinese subsidies is not to graduate China to market economy status at this time, but rather to arm our domestic producers with strong, WTO consistent trade remedies. While Beijing advocates gaining market economy status, China does not yet meet the statutory criteria to warrant such a change. Graduating China before it meets the statutory criteria would set a dangerous precedent. While Congress may have designated the Department of Commerce as the “administering authority” for the purpose of determining which countries are to be nonmarket economies under the *Tariff Act of 1930*, it certainly did not make the statutory criteria for making such a determination available as bargaining chips in a negotiation between the Administration and Beijing. Congress must remain vigilant

and exercise its oversight authority to ensure that China is not granted market economy status prematurely.

China's evolution in the global marketplace is of the utmost importance, not only to domestic manufacturers and farmers, but to those same interests in every other country in the world. The sheer magnitude of the Chinese population and the ability of China to affect many facets of the global economy will keep global attention on China's behavior and judge its commitment to become a responsible player in the international trading community.

Many commitments were made as part of China's accession agreement to the WTO. Many of those commitments remain unsatisfactorily fulfilled. Whether it is continued use of discriminatory tax regimes, control of the banking sector to subsidize core heavy industries such as steel, licensing and quota regimes, or export restraints like the one currently in place on coke and coking coal, these practices all represent commitments China made upon its accession to the WTO which have not been successfully satisfied.

Of course, the most egregious practice of China's mercantilist trade policy relates to currency. It is widely accepted that the Chinese currency is substantially undervalued against the dollar, to which it is pegged. China's currency has been pegged at about 8.3 yuan to the dollar since the system was implemented in 1994. China has been able to maintain this peg because its currency is not fully convertible in international markets, and because it maintains restrictions and controls over capital transactions. As a result, China's exchange rate is not based on market forces. Many economists have asserted that China's currency is significantly undervalued vis-à-vis the U.S. dollar, making Chinese exports to the United States cheaper, and U.S. exports to China more expensive than they would be if exchange rates were determined by market forces.

I do not wish to leave this Committee with the impression that China has not made some progress in certain relevant areas. I believe that much of the progress to date has been the result of continued engagement with Beijing by the United States. This strategy is the

correct one, and we can not revert to isolationism when dealing with the challenges facing domestic interests as a result of China's evolving economy.

Nonetheless, while we must continue to work with nonmarket economy countries to foster reform, we must also provide our manufacturers and farmers complete access to the full range of U.S. trade remedy laws.

We have world-class manufacturers in this country. We have manufacturers that use cutting edge technology and who employ some of the most highly skilled and efficient workers in the world. In capital intensive industries we should be the most efficient, cost effective producers in the world. But, in certain cases, due to the subsidies some of our trading partners employ to create artificial comparative advantages, we are not.

Illegal trade is not an acceptable practice or answer to competitiveness challenges, and it is not appropriate for one country to gain from illegal trade at the expense of another. I would add that this statement also holds true for different sectors of the domestic economy. If one sector is suffering at the hands of illegal imports, particularly if it is a sector that is a major producer of manufacturing inputs such as steel, it is clearly in the consuming industries' interest to remedy the illegal trade activity despite its desire to gain from the illegal trade injuring the supplying sector.

Support for H.R. 3716 is not limited to the House of Representatives. Companion legislation introduced in the Senate by Chairman Collins and Senator Bayh currently has the support of 18 Senators. Additionally, the legislation has been endorsed by 21 associations and labor organizations, including: the National Association of Manufacturers, the American Forest & Paper Association, the American Steel Producing Community, the United Steelworkers of America, the American Textile Machinery Association, the Catfish Farmers of America, the Copper and Brass Fabricators Council, the Cotton Council, the Metals Service Center Institute, the Precision Metalforming Association, the Printing Industries of America, Inc., and the Association for Manufacturing Technology to name a few.

Finally, I would be remiss given the broad nature of this hearing if I did not mention other legislation I have introduced to make our trade remedy laws work better for America's employers.

H.R. 3058, *The Currency Harmonization through Neutralizing Action or CHINA Act* is a critical tool in leveraging China to play by the rules. Specifically, the bill pressures China to float its currency or face retaliatory tariffs equal to the degree of manipulation on all products exported to the United States from China. This legislation has the support of 85 Members of the House of Representatives.

H.R. 2365, *The Trade Law Reform Act of 2003* makes broad reforms to the safeguard, antidumping and countervailing duty laws and holds the WTO more accountable for its dispute settlement proceedings.

The safeguard, anti-dumping and countervailing duty amendments reform current U.S. law, which makes relief from unfair trade unnecessarily difficult to obtain. Indeed, U.S. laws impose standards more burdensome than those set by the WTO.

Current barriers facing American companies' ability to file complaints will be greatly reduced and the decision making process streamlined to more quickly provide protection from import surges and unfair trade.

Additionally, H.R. 2365 will create a WTO Dispute Settlement Commission to review adverse WTO decisions involving the United States. The Commission will objectively report to Congress whether the dispute settlement panel overstepped its bounds.

Let me finish by again highlighting that the ability to fight illegal nonmarket economy subsidies – an ability we currently do not have – is of paramount importance. This issue, perhaps more than any other over the next few years, will make or break the possibility of a level playing field for employers when dealing with China.

H.R. 3716 can also address currency manipulation and other subsidies that make it possible for Chinese products to be sold in the United States for less than the cost of production.

Currency manipulation amounts to nothing more than an export subsidy and a tax on imports. The time has come for Congress to focus its attention on a WTO consistent solution to allow us to fight all subsidies in every country.

Thank you for the opportunity to appear before you today.

**Testimony by Congressman Artur Davis
before the House Committee on Small Business**

Wednesday, July 13, 2004

Good afternoon, Chairman Manzullo, Ranking Member Velasquez, distinguished committee members. I want to thank you for holding this hearing on the critical issue of foreign subsidies and the impact they have on America's businesses and farmers, and also for extending the invitation for me to testify before you today. As we navigate our path through the competitive global economy, there is no more critical question we can ask than how to craft our nation's trade laws to benefit our small businesses, manufacturers, and family farmers. Currently we are facing a situation in which our trade laws work against, instead of *for*, our workers, and HR 3716 seeks to change this.

As others have testified today, the portion of U.S. trade law that allows the Department of Commerce to levy countervailing duties (CVD's) against illegally-subsidized foreign imports has an inexplicable glitch – while it applies to market economies like the European Union, India or Chile, it does not apply to non-market economies (NME's) like China or Vietnam. In practical terms, then, the United States does not have the ability to remedy illegal subsidies from those nations whose very economies structurally engage in subsidization (i.e. state-owned or controlled enterprises in a socialist or transitional economy) – in other words, the worst offenders of global anti-subsidy rules are the only nations exempted from U.S. trade laws dealing with illegal

subsidies. The predictable and unfortunate result has been a flood of subsidized foreign imports that are driving market price far below what American firms are capable of competing against, simply because foreign governments subsidize their nation's products and the United States cannot. Chinese steel, wood products, and cotton; Vietnamese shrimp and catfish; Ukrainian food stuffs; all are produced, shipped and then sold in the United States all for less than the cost of the raw materials alone, much less the cost of production or shipping. This is clearly wrong.

HR 3716, which my good friend Phil English and I have introduced, provides a level playing field and gives our businesses and farmers a trade law that works for them, not against them. Quite simply, this common-sense legislation gives the Department of Commerce the authority to levy countervailing duties against products from both market and non-market economies. It is important to note that this bill does not actually mandate duties; it simply gives Commerce the authority to levy duties if warranted. In other words, HR 3716 secures an important bargaining chip to compel our competition to veer away from illegal subsidies.

There has been the argument from some quarters that this bill represents a protectionist approach to our nation's trade laws, that it erects barriers to international trade, that it somehow reverses the decades-long trend of opening markets for global commerce. I want to set the record straight: HR 3716 is not protectionist in any way. It confers no unfair advantages on our producers; it simply empowers us to make sure that our market competition plays by the same rules that we do. HR 3716 reinforces existing

rules of international trade law and codifies the World Trade Organization's opposition to subsidies.

HR 3716 also reduces unintended trade barriers – and hence enhances global trade – by simplifying our nation's convoluted and often contradictory trade laws. Under current law, the Department of Commerce distinguishes between a non-market economy and a market economy through a convoluted formula that can produce often arbitrary results. What defines a market economy versus a non-market economy today? Will those factors change tomorrow if the country makes sufficient progress toward market economy status? What happens if a country's marketization policy changes or is altered to gain a competitive advantage for certain industries? How much discretion is given the Commerce Department in determining what factors go into the formula?

These questions clearly demonstrate that some uncertainty exists for investors both at home and overseas as to what constitutes a non-market economy, whether that designation may change at some arbitrary point, and how long it may be before non-market economies complete the transition to full market status. Because of this complexity, investors and businesses here in the United States and in foreign countries simply may not know whom they are competing against, by what rules they are expected to compete and therefore cannot make informed investment decisions. This complexity can foster uncertainty about the rules of the game and threaten the natural functioning of the market, as investors cannot make accurate forecasts about future costs, prices and revenues. Even economists who favor unfettered trade are fundamentally opposed to this

kind of interruption or warping of market forces. HR 3716 eliminates this uncertainty, and helps restore the natural functioning of the global market. Moreover, the market-warping effect that HR 3716 is intended to remedy only protects foreign countries, not the United States. Even the most ardent free traders should favor eliminating the very policies that warp the market and place American firms at a *disadvantage*. So, by eliminating the market-warp effect of current anti-subsidy law, HR 3716 actually reduces trade barriers and drives the global economy away from subsidies.

Secondly, HR 3716 harmonizes the confusing difference between anti-subsidy law and anti-dumping law, creating a single standard: if you disrupt the international market by engaging in dumping or illegal subsidies, the United States has the ability to put in place trade remedies to insure that you do not gain an unfair market share. Under current anti-dumping law, no differentiation is made between market and non-market economies. Why should anti-dumping rules apply to both market and non-market economies, but anti-subsidy rules apply to one and not the other? Not only does current law damage American companies and warp global trade, it is completely out-of-sync with our anti-dumping rules, the other critical component to our nation's trade remedy strategy. HR 3716 fixes this glitch and reintegrates our anti-subsidy rules with the rest of our trade remedy strategy.

This bipartisan legislation deserves to be adopted. HR 3716 reaffirms our commitment to unfettered fair competition. It will also incentivize our competitors to

refrain from market-warping protections that are plaguing our businesses and workers. I appreciate your careful consideration of this proposal.

Testimony of Franklin J. Vargo
Vice President, International Economic Affairs
National Association of Manufacturers

On Behalf of The National Association of Manufacturers

Before the House Committee on Small Business

Hearing On

Trade Fairness: How We Can Make Our Trade Laws Work for America's
Small Businesses

July 14, 2004

Mr. Chairman and Members of the Committee:

I am pleased to testify today on behalf of the National Association of Manufacturers (the NAM) regarding trade fairness and how we can make U.S. trade laws work for our small businesses. I want to commend the Chairman for scheduling this hearing, for the subject is an important one in view of the growing opportunities and challenges that international trade presents to our small companies. It is a particularly important issue to the NAM, as 10,000 of our 14,000 members are small or medium-sized firms.

In presenting my testimony, I would like to draw not only on my experience in the NAM and the views of many of our member companies, but also on my years at the Commerce Department, including my own role in monitoring and compliance that involved working with companies making use of trade remedy laws and trade compliance measures in U.S. bilateral and multilateral trade agreements.

The NAM is a strong supporter of opening markets and eliminating trade barriers around the world. We were founded in 1895 to promote exports of American manufactured goods and we have long held the view that increased trade conveys great benefits to our economy.

But in order for free trade to work, we must have a level playing field internationally, including the elimination of barriers to U.S. exports, and access to agreed trade remedies and dispute settlement mechanisms to counter unfair practices in foreign countries and to ensure that we obtain the full benefits of our trade agreements.

The NAM believes strongly that the U.S. government must work hard to bring down barriers to U.S. goods around the world. The United States is already very open to the world. Fully two-thirds of all goods imported into the United States already enter completely duty-free, Mr. Chairman, and our average industrial tariff is less than 2 percent. Yet, outside the highly industrialized countries, we face bound tariff rates that, on average, are 12 times high as ours. This is no trivial matter, as more than half of our trade deficit is now with the developing countries. It is time for them to lower their trade barriers down to our level – or to eliminate them completely. That is what free trade agreements are about, and we need more trade agreements as quickly as we can negotiate them. Failure to do so only perpetuates the existence of a playing field that is decidedly un-level.

U.S. companies large and small need trade agreements such as the U.S. – Australian Free Trade Agreement and the Central American Free Trade Agreement (CAFTA) to improve access to foreign markets, remove high tariffs overseas and dismantle other foreign trade barriers to U.S. goods. This last point is especially important for small exporters, as they often do not have the resources to work through problems that arise from these trade barriers. We need to bring these barriers down.

The free trade agreement (FTA) with Australia that Congress is now considering is an excellent example of how important FTA's are to U.S. companies. We call the U.S. – Australia agreement the "manufacturers' agreement" because of the significant liberalization it will bring for U.S. manufacturers. On the first day the agreement is implemented, Mr. Chairman, Australian tariffs on 99% of our manufactured goods exports to that country become totally duty-free. Over nine in every ten dollars of American exports to Australia are manufactured goods, and the NAM estimates that this agreement will result in nearly \$2 billion in additional exports by U.S. manufacturers.

But we also believe we have to see that our rights gained in trade agreements are implemented through full enforcement of laws and agreements. The vast bulk of world trade is conducted in accordance with global trade rules and without government intervention. But the drafters of the General Agreement on Tariffs and Trade (the GATT) and the World Trade Organization (WTO) spent considerable time providing means of dealing with those instances when trade is not conducted fairly. The NAM's policy for some time has been that we favor the vigorous enforcement of U.S. laws dealing with administrative and other remedies to counteract unfair foreign practices. This is necessary not only to combat specific instances of unfair trade, but also to provide confidence that trade rules work.

Countervailing Duties and Non-Market Economies

As we look at our trade laws, Mr. Chairman, we think they are pretty complete. We believe they provide the basis for addressing unfair trade practices and should be fully implemented in accordance with the provisions of WTO rules and bilateral agreements. There is, however, one exception -- the ability to address subsidies in non-market economies. Producers in other WTO member countries are able to use trade rules to offset subsidies in non-market economies, but U.S. producers are not.

The WTO recognizes that subsidies can distort trade flows, and the WTO Subsidies and Countervailing Measures (SCM agreement) allows countervailing import duties to offset such subsidies. For example, the SCM agreement is what has enabled the European Union to place trade sanctions on U.S. exports because U.S. tax provisions on exports were found by the WTO to be an illegal export subsidy in the ongoing FSC-ETI dispute.

While American companies can seek to have the U.S. government offset foreign government subsidies by applying countervailing duties to subsidized products from market economies, U.S. practice prevents the application of countervailing duties to China, Viet-Nam, and the remaining other "non-market economies." This U.S. practice goes back to 1984, when the U.S. Commerce Department decided that the concept of subsidies was meaningless in non-market economies. When the Commerce Department's decision was challenged in 1986, it was upheld by the courts. The Court of Appeals, however, suggested that Congress could clarify whether it intended that countervailing duties could be applied to exports from non-market economies.

Until fairly recently, this issue did not raise much interest. However, in the last couple of years, the emergence of China as a rapidly-growing supplier of manufactured goods to the United States has generated rising concern regarding the possibility that some of its exports may be subsidized to a considerable degree.

Not infrequently, the NAM receives reports from different industries that Chinese products are being sold in the United States at prices so low that they could not even cover the cost of raw materials and shipping much less full production and marketing costs. These reports suggest the possibility of subsidies to help Chinese exporters gain an advantage in the U.S. market. Whenever Chinese companies have a genuine labor cost or other advantage under marketplace rules, that is something our companies have to deal with. But they should not have to deal with subsidized competition.

One of our member companies that makes hardware provides a typical example: Their large retail customers in the United States are able to purchase made-in-China pliers for 49 cents. The U.S. company makes identical pliers, but the problem is that the raw materials cost in these pliers is 61 cents. Note that this is not the sales price of the U.S. pliers -- just the cost of the raw materials before they are even processed.

Since steel, plastic and rubber prices are not lower in China than in the United States, how is it possible to take 61 cents of raw material, forge, shape, assemble, and polish them – and then package them and ship them across the ocean to sell for 49 cents?

I've mentioned only one item, but I could as easily tell similar stories regarding mounting systems used to control vibration and noise on industrial machines produced by an Illinois company, brass screws used in industrial equipment produced in Ohio, commercial grade fish cookers produced in Mississippi, and others as well. The range of products is broad and the conclusion inescapable that something is awry here. No matter how low labor costs are, it is very clear that the price of a product produced in China and shipped to the United States for sale should not be lower than the basic materials that go into that product.

Looking at the problem in another way: the average labor cost in an American manufactured good, including direct labor and benefits, is 11% of the total cost of the good. This varies by sector, but even at the high end, labor is rarely more than 30% of the total cost. So how is it that Chinese products imported to the United States are priced as much as 60% or 70% lower than those produced here? The Chinese still have costs of capital, facilities, shipping, raw materials, etc.

Or do they? This is the question that needs to be addressed: Are there large-scale systemic forms of subsidization going on in China that makes some products so cheap that our companies could not under any circumstances compete?

The Office of the U.S. Trade Representative (USTR) has noted in its December 2003 report on China's WTO compliance that U.S. experts are currently seeking more information about several Chinese programs and policies that may confer prohibited export subsidies. China has also failed for two years to submit its annual subsidy notification required by the WTO Subsidies Agreement.

The U.S.-China Economic and Security Review Commission noted in its 2004 Report to Congress that one of its areas of concern for administration action is China's "continued provision of direct and indirect subsidies to Chinese producers."

Secretary of Commerce Don Evans last October in Beijing pointed out one major area of concern. He said, "There is simply no valid economic justification for many of the loans currently being extended to unprofitable businesses in China. Non-performing loans to state-run companies are a form of government subsidy."

We often read reports of a Chinese banking system in which loans made are not based on creditworthiness. Nor do they always have to be repaid. They can be what in effect are open working capital accounts that prop up insolvent enterprises. As Secretary Evans pointed out, this is a form of subsidy. However this is one area in which the United States has tied its own hands.

When China joined the WTO in 2001, it agreed to be bound by the SCM agreement, concurring that countervailing duties could be applied to offset the effect of any Chinese subsidies. As a matter of fact, special provisions were included in which China agreed that non-Chinese benchmarks could be used to quantify subsidies if Chinese benchmarks were unavailable.

Legislation that would clarify the Congressional intent on the application of countervailing duties to offset subsidized exports from non-market economies has been introduced in the House and the Senate. Both bills (H.R. 3716 and S.2212) clarify the intent of Congress by inserting the words, "including a non-market economy" to ensure it is clear that countervailing duties may be applied to imports from both market and non-market economies.

The NAM has examined this issue and concluded that if U.S. companies believe there are countervailable subsidies in China and other non-market economies, they should be able to avail themselves of the countervailing duty provisions in U.S. law just as they could if subsidies originated in market economies. The NAM, through its China Policy Subcommittee and its International Economic Policy Committee considered this and decided to support H.R. 3716 and S. 2212. We believe that this legislation would broaden the range of WTO-legal tools available to U.S. companies to compete on a more level playing field.

To be specific, the NAM position is to, "support the legislative fix contained in two bills in Congress, H.R. 3716 and S. 2212 or similar amendments or report language that would effectively clarify the intent of Congress as being that countervailing duty provisions may be applied to both market and non-market economies."

Let me stress that we view this as part of a positive and forward-looking trade relationship with China. It is not a negative step in any way. It is a step that would promise U.S. companies that if governments in China or other non-market economies are subsidizing exports, there is a legitimate tool to address the problem. If subsidies exist, U.S. companies should be able to seek to have them offset. They should not feel that they can only stand by helplessly without WTO-consistent action as a possibility. These assurances, in fact, should help reduce some of the pressures we all see for WTO-inconsistent actions to restrict China's access to the U.S. market.

Addressing possible subsidization is one part of NAM's overall policy towards China. As so many of the trade concerns of smaller companies relate to China, I want to ensure that my statement adequately discusses various aspects of our China trade relationship. I want to stress that the NAM seeks a positive and balanced trade relationship with China that reflects market forces as closely as possible. The Chinese economy poses huge opportunities for U.S. exporters and investors, and these will grow rapidly. We need to nurture these opportunities as we simultaneously deal with the fact that so many import-competing U.S. firms are challenged by China as never before. Other areas of our approach include:

Counterfeiting and Ineffective Enforcement of IPR Protection -- While Chinese laws on intellectual property rights (IPR) have improved considerably, the lack of effective enforcement remains a serious problem. Product counterfeiting is occurring on a massive scale. The brand name reputations and export and sales abilities of American companies are being affected in the billions of dollars -- with an effect on U.S. jobs as well as on the health and safety of individuals who are deceived into thinking they are buying genuine products. China needs effective laws and enforcement to criminalize counterfeiting. It also needs to enforce existing commitments to stop the export of counterfeit goods. The NAM is working closely with USTR and the Department of Commerce on this, and we are optimistic that as a result of the recent Joint Commission on Commerce and Trade (JCCT) meeting, we may soon see significant progress.

China's Undervalued Currency -- One of the major factors contributing to our trade imbalance is China's undervalued and tightly controlled currency. China has maintained its currency at its 1994 level against the dollar -- despite a huge increase in production capability, productivity, quality, production range, foreign direct investment inflows, and other factors that would normally be expected to cause a currency to appreciate. Were it able to float, the degree of upward pressure that the yuan would feel is amply indicated in the amount of dollar reserves the Chinese government has to accumulate to prevent upward movement of its currency. China has added \$125 billion to its reserves in the last year, bringing them to an astonishing level of \$470 billion -- equivalent to about one-third of China's entire GDP. As recently as this March, the NAM's Board of Directors resolved that, "foreign countries, particularly China and other major trading partners, should reduce trade barriers, comply with international trade rules and allow markets to determine exchange rates.

In April the Administration indicated it would not accept a Section 301 case on China's currency practices that was being prepared by the Fair Currency Alliance -- a coalition of the NAM and more than 40 business, agricultural, and labor organizations seeking to have China end its currency manipulation. The Administration stressed it was making progress with the Chinese government on the currency and that a 301 case would threaten that progress. The Administration, however, said it would work closely with the Alliance as it sought to have China move to a flexible exchange rate regime.

The Alliance has been doing that, and is also working in other ways to ensure that we maintain awareness of the problem. We look to the visit of Vice Premier Huang Ju sometime in the next month or so for progress on this issue.

Export Promotion -- The NAM believes that it is also extremely important that more U.S. companies take advantage of China's import market, the fastest growing in the world. The NAM has been pressing the Department of Commerce for a radical increase in its efforts to promote U.S. exports to China, especially those efforts that are oriented to small and medium sized companies.

In our view there should be a massive export promotion program that includes American Trade Centers to showcase U.S. products, provide space for specialized industry associations, include Export Trading Companies to represent groups of smaller firms, and provide offices for Commerce Department staff who would be exploring local opportunities for sales of U.S. goods. We also need significantly increased Export Import Bank and Trade Development Agency funding targeted at sales in China and a China Business Information Center patterned after the widely-praised Business Information Center for the Newly Independent States – known as “BISNIS.”

WTO Compliance – Additionally, it is very important that now that China has joined the WTO, every effort be made to ensure that China is meeting its accession commitments. The NAM presents annual reports to USTR based on member companies’ reports to us. Our first annual report showed relatively little company concern about China’s implementation, in part because China is phasing in its commitments over several years. This year’s report, however, showed a rising concern; and we highlighted several specific problems to the Administration.

I am very pleased to point out that two of our most prominent issues have now been resolved. The issue of China’s wireless network standard that would in effect have mandated U.S. technology transfer to China was satisfactorily resolved during the April Joint Commission meeting, and just last week the issue of discriminatory value added tax treatment of semiconductors was resolved. The NAM was at the forefront of business groups pressing on these issues, for we knew if China were able to use standards and value-added taxes to discriminate against American companies in the semiconductor and wireless network industries, that could be just the beginning of a spreading round of discrimination that could affect growing numbers of U.S. industries.

It is significant that China agreed to end both practices. China is particularly to be commended for agreeing to end its value-added tax discrimination against imported semiconductors without a drawn-out dispute settlement fight in the WTO. The Administration has shown real progress here. There is still more to be done, however.

Trade Law Enforcement and Small Business

Now, Mr. Chairman, let me turn to our trade laws and trade enforcement more broadly. Generally, we have a good body of trade law, trade rights and the government offices to administer them. Although, as I have noted, we need more trade agreements to extend our trade rights into countries where we presently lack them. Hence the reason for the NAM’s strong support of added trade agreements.

The Department of Commerce and the Office of the U.S. Trade Representative are where most of the trade implementation and enforcement mechanisms are located, though the State and Agriculture Departments have important roles to play as well.

Commerce's Trade Compliance Center (the TCC) is particularly significant, for it was created a number of years ago especially to work with smaller companies that cannot afford to have Washington offices or retain specialized international legal counsel. The TCC has a China Compliance Hotline which pays special attention to reports of trade agreement violations in China. In addition, the TCC allows companies online to report trade barriers they encounter in any country and also provides access to commercial and economic information to help U.S. exporters understand and evaluate opportunities created by trade agreements the United States has negotiated. The TCC also seeks to obtain voluntary compliance with trade agreements on the part of foreign governments, in an effort to avoid formal dispute resolution.

The Commerce Department's Import Administration administers the anti-dumping and countervailing duty laws. As part of the Administration's manufacturing initiative, the Import Administration has set up an Unfair Trade Practices Task Force in order to pursue the elimination of foreign unfair trade practices that adversely affect U.S. commercial interests. The Task Force held a public hearing at the end of June to get information on private sector priorities. The objective of this new organization is to reduce the necessity of having companies file expensive legal cases to enforce their rights, by having consultations with the involved foreign parties in efforts to resolve matters "out of court." Looking into possible subsidization in China should be at the top of their list.

The Commerce Department's Commercial Office in Beijing has just introduced an Intellectual Property Rights (IPR) toolkit that is especially designed for small companies to help them protect their patents, trademarks, and other intellectual property against theft. And Commerce has just announced the assignment of a patent lawyer to the embassy in Beijing who will devote 100% of his or her time to this issue.

USTR is responsible for enforcing U.S. trade rights through dispute settlement under WTO or bilateral agreements. USTR also works to seek foreign compliance without resorting to lengthy formal dispute settlement. On China matters, both USTR and Commerce work together through the Joint Commission on Commerce and Trade (JCCT).

Deputy U.S. Trade Representative Josette Shiner has made IPR issues her highest priority in talks with the Chinese government and has worked closely with the NAM to address cases of counterfeit goods when they are brought to her attention. She and USTR's expanded China office have worked aggressively on this and other issues.

Additionally, USTR conducts annual reviews of China's compliance, IPR compliance, and trade barriers more generally. Finally, I would like to note that, in large part through this Committee's efforts, USTR has a director of small business affairs to work with smaller companies.

Making the System Work Better for Smaller Companies

This brief review, Mr. Chairman, demonstrates that the Executive Branch has constructed a significant set of mechanisms designed to help smaller companies understand and utilize their trade rights. These have recently been improved with added funding that the Congress has provided.

The system, however, could work better. For one thing, smaller companies frequently don't know these resources exist. For example, at a recent NAM trade meeting discussing China, a representative from a small manufacturer suggested that what the U.S. government needs is a trade complaint "hotline." This is a great idea -- but the problem is that one already exists. It was, in fact, set up a number of years ago. If one of our companies that's involved enough to come to Washington for a meeting on trade policy doesn't know about it, it's safe to say a lot of our other small companies don't know about it either. Checking with a few companies provided quick verification. Few companies seem to be aware this help is available. Likewise, hardly anyone seems to know that USTR has a small business liaison.

We at the NAM, the Commerce Department and USTR need to do more to reach out to our small companies and make them aware of these services. Having a website and publishing notices in the Federal Register is not enough. Mr. Chairman, this provides an opportunity for you, Commerce, USTR, the NAM and other organizations to get together to see what we can do to increase awareness of these offices and further develop services for our small companies.

There is a second problem -- the cost of using trade remedies. It is not enough just to pass legislation making a countervailing duty remedy applicable. Many small companies look at this and say, "So what -- doesn't help me. I can't afford a million dollar case to solve my problem." We must address the issue of how trade remedies can be made less expensive making trade cases available to small companies.

Commerce's new unfair trade practices task force could be an important development here, and needs to evolve rapidly. It has also been suggested that groups within the Commerce Department could do research and statistical analysis that would be available for companies bringing dumping or subsidy cases, thus bringing down the cost. There may be other things that can be done to assist small businesses when they have legitimate trade problems.

Conclusion

In closing, Mr. Chairman, I would like to point out another issue central to the future of our manufacturing companies, both large and small. We will not succeed in having a robust manufacturing base in the coming years if we do not address the high cost of manufacturing in the United States. It is that simple. U.S. industry is burdened by legal and regulatory systems that retard growth and destroy jobs.

Unrestrained asbestos liability alone, for example, could cost U.S. industry \$250 billion, resulting in more bankruptcies and job losses. Rapidly rising health care costs are a constant source of growing cost pressures, particularly for small manufacturers. Energy policies that are leading to a rising imbalance between supply and demand are adding yet more cost pressures. Lack of support for research and development and a weakening commitment to the protection of intellectual property threatens to erode U.S. technology leadership at a time when we need innovation more than ever. And shortages of skilled workers have many manufacturers wondering how they can expand in the future.

Unless these challenges are addressed, frankly we can expect a growing erosion in the U.S. industrial base. Our competitors are not standing still. They are looking at the future and determining how best to position themselves, meaning that international competition will only become more intense.

However, if we begin to act now, with an aggressive program of trade agreements coupled with vigorous enforcement of those agreements, and a concerted strategy on economic growth and manufacturing renewal, we can restore the dynamism and competitiveness of U.S. industry and ensure the global leadership that is so central to our economic and national security.

Thank you, Mr. Chairman.

**TESTIMONY BEFORE
THE HOUSE COMMITTEE ON SMALL BUSINESS**

JOHN D. BASSETT, III
President and CEO, Vaughan-Bassett Furniture Company
And the Chairman of the Committee For Legal Trade

JULY 14, 2004

Congressman Boucher, thank you for that kind introduction, and I wish to thank Chairman Manzullo, Congresswoman Velazquez, and the members of the Committee for inviting me to appear before you today.

Also, we appreciate the testimony of Congressmen English and Davis. We support their legislation to extend countervailing duty remedies to subsidized imports from China and other non-market economy countries.

The Committee For Legal Trade is now made up of 31 bedroom manufacturers and five labor unions. We are located in 18 different states. While Vaughan-Bassett is one of the larger members of our coalition, many member companies employ fewer than 500 workers. And we are supported and depend upon hundreds of supply companies that employ from 10 to 100 people.

The Committee For Legal Trade supports free trade as long as it is fair and legal. We also support trade laws that provide effective remedies against unfairly traded imports that injure U.S. industries and their workers. As is evident from our growing trade deficit with China, injurious imports are increasingly coming from that non-market economy country. Thus, it is important that our trade laws effectively address unfair import competition from China and other non-market economy countries.

The domestic industry producing wooden bedroom furniture has been devastated by a flood of dumped imports from China. From 2000 to 2003, imports from China jumped 224 percent, or by nearly \$1 billion. China's share of U.S. imports of bedroom furniture from all countries increased from 26 percent in 2001 to over 50 percent in 2003. As a result of this flood of cheap imports, the U.S. furniture industry has closed dozens of factories and lost over 35,000 wood furniture jobs.

We filed our antidumping petition on October 31, 2003. It is the largest antidumping investigation ever conducted against China. The International Trade Commission made a preliminary determination in January that the domestic industry is materially injured. The ITC found that during the 3-year period covered by its investigation, imports from China were consistently priced lower than comparable domestic products and that Chinese exporters used these low prices to increase their share of the U.S. market from 10 percent to 28 percent. As a result, domestic producers suffered substantial declines in production, capacity utilization, shipments, employment,

and capital expenditures. The industry's operating income fell 38 percent from 2000 to 2002 and by another 45 percent from the first half of 2002 to the first half of 2003.

The Commerce Department issued a preliminary ruling last month that China is illegally dumping bedroom furniture. Specifically, it found dumping by each of the seven Chinese exporters that were individually examined. Final rulings will be made by December of this year.

We expect U.S. furniture factories and their workers to benefit from the preliminary duties that were imposed last month. We also are optimistic that final duties will be imposed in December and that we can gain even more relief pursuant to annual administrative reviews. This is the first good news that our industry has had with respect to import competition since the Chinese starting targeting our market roughly four years ago.

Based on our experience, we make the following recommendations for how U.S. businesses can be better served by the U.S. government when dealing with injurious imports from non-market economies like China and Vietnam.

First, the U.S. government should do a better job of informing companies of their rights under U.S. trade law. U.S. bedroom manufacturers only learned of the antidumping laws of this country after paying \$75,000 to a law firm for a study. I've read that the government spent millions to promote the new \$20 bill. I know how to use a \$20 bill, but I wish the government had done more to make me and other manufacturers aware of our rights under our trade laws. We did not learn about this potential remedy until it was almost too late.

Second, the Commerce Department is doing the best it can with the resources it has available to conduct its investigation of the Chinese bedroom manufacturers. It is obvious to us, however, that the Department's investigative team is underfunded and understaffed. There are tens of thousands of Chinese producers and hundreds of Chinese exporters of bedroom furniture who may be violating the laws they promised to follow when China joined the WTO in 2001. Our opponents – the Chinese factories and some big box retailers in the United States who buy from the Chinese -- have hired twenty-two separate law firms to fight this investigation. Our coalition has one law firm – King & Spalding. The Commerce Department needs more resources to handle investigations with such a large number of exporters.

Third, there is a wide range in the degree of dumping that is occurring among Chinese furniture manufacturers. The Department only selected seven companies to investigate. It did not even select a couple of the companies that we thought were the worst dumpers. The Department either needs more resources to investigate more foreign exporters or the petitioners should have a greater say in who is investigated.

Fourth, after the antidumping order is imposed, petitioners and Chinese exporters can request administrative reviews to recalculate the margins of dumping. Under past

practice, however, Commerce will likely only investigate fewer than 10 Chinese exporters and assign a weighted average rate to other cooperating Chinese exporters. As I noted above with regard to original investigations, Commerce should have greater resources to investigate many more Chinese exporters, or the Petitioners should have a greater say in who is investigated. Otherwise, we will never get a dumping margin calculated for some of the most egregious dumpers.

Fifth, we will have to wait until December of 2005 to ask for an administrative review of the most egregious Chinese dumpers, and even then it is not certain that Commerce will have the resources to investigate them all. The first administrative review will take another 12 to 18 months – or until as far out as the summer of 2007. Many American manufacturers – particularly the smaller ones – simply cannot wait that long for adequate remedies to be imposed against illegal dumping. It shouldn't take almost four years to address the worst offenders.

Sixth, in our case, about 80 Chinese exporters received a preliminary margin of 11 percent based on the weighted average margin of the seven mandatory respondents. Non-cooperative Chinese exporters received a preliminary margin of 198 percent. It is too easy for non-mandatory respondents to receive the lower "all others" rate. The Department is currently studying revisions to its practice in this area, but its revisions may come too late to help us in this investigation.

Seventh, the Department should be proactive and self-initiate antidumping investigations in appropriate circumstances, especially when small businesses are facing the brunt of injurious imports from China. For many industries, these cases are too expensive to launch without assistance from the U.S. government.

Eighth, with very little notice, the Commerce Department held a hearing last month and has set up a study to determine whether China should be given market economy status. China pegs its currency; it subsidizes, owns, or controls many of its furniture factories; and it manipulates the system virtually any way it wants until its companies win.

In 2001, China joined the WTO on the terms and conditions set forth in China's Protocol of Accession. Under the Protocol, WTO Members have the right to apply non-market economy ("NME") methodology in antidumping investigations involving China until 2016. This 15-year period for applying NME methodology to China was identified as a justification for passing the legislation which implemented the U.S.-China bilateral agreement and China's accession to the WTO. The United States should not truncate this 15-year period and undermine this bargain struck with the Congress. The European Commission recently completed a study and confirmed that China remains a non-market economy. It would be a travesty for the U.S. government to grant China market economy status now, when it told Congress in 2001 that it could be treated as a non-market economy until 2016.

Ninth, The Committee for Legal Trade supports the legislation offered by Congressmen English and Davis to apply countervailing duties to imports benefiting from subsidies granted by the Chinese government. It is my understanding that the Chinese Government has subsidized its furniture industry, but we have no way of investigating government subsidies under current law. It makes no sense to carve out China and other non-market economy countries from countervailing duty remedies, when they may be guilty of the most egregious subsidies to their manufacturing industries.

Finally, we also support pending legislation to require that cash deposits, not bonds, be used to secure estimated antidumping duties during new shipper reviews. It is becoming increasingly common for new Chinese exporters to spring up after an antidumping order is imposed and to request new shipper reviews to establish their own dumping margins. Current law does not require that U.S. importers of products exported by new shippers pay cash deposits to cover the estimated antidumping duties at the time of entry. Under U.S. law, they may post only bonds. The cost of the bonds, however, is only a small fraction of cash deposits, and the new shipper review may take 12 to 18 months to complete. If they do not get a very low duty in the new shipper review, they tend to disappear, default on the bond, and avoid payment of the duties. We understand that Congressman Neal of Massachusetts has raised this issue before the Ways and Means Committee, and we hope that legislation will soon be introduced in the House. Legislation is already pending on this issue in the Senate.

Mr. Chairman, thank you for this opportunity to address the Committee on Small Business. I would be delighted to answer any questions the Committee may have.

TESTIMONY OF TOM HOPSON
President and CEO
Five Rivers Electronic Innovations, LLC

**“Trade Fairness Hearing: How We Can Make Our Trade Laws Work for
America’s Small Businesses”**

**Before the Committee on Small Business
House of Representatives**

JULY 14, 2004

TESTIMONY OF TOM HOPSON

Good Morning. My name is Tom Hopson and I have been in the television manufacturing business for over 25 years. For the past five years, I have served as the President and CEO of Five Rivers Electronic Innovations LLC, a television manufacturing company located in Greeneville, Tennessee. Five Rivers purchased the Greeneville plant from Philips in 1997, and since that time, we have continued on in the tradition of Magnavox and Philips making color TVs in the United States. While there are several multinational companies that manufacture television sets in the United States, such as Sony, Toshiba, Sanyo and Matsushita, Five Rivers is the only remaining U.S.-owned company, and the only company that has been willing to speak out publicly in opposition to the flood of Chinese imports. We currently employ approximately 400 workers at our television plant.

The principal topic of my testimony today centers on the serious difficulties that we have faced as a result of the flood of Chinese TV imports. As you may know, the U.S. television industry has experienced competition from abroad over the past 30 years and has consolidated and

changed ownership. Since taking over the plant from Philips, however, Five Rivers has maintained a high level of efficiency, and based on our extensive experience in this industry, we were able to make a satisfactory return until a couple of years ago.

Our situation changed dramatically for the worse in 2002. Our newest competitors -- television producers in China -- were different from the competition we had been facing. Between 2001 and 2003, Chinese imports increased by over 3,000 percent. In less than two years, imports from China caused our business to change from a thriving one to a struggling one.

The impact of the substantial capacity in China became particularly noticeable in the U.S. marketplace during the first half of 2001. And, by the end of 2002, imports from China had become the dominant low-price force in the market place, creating a major disruption in the market place.

Five Rivers, along with other U.S. producers, was forced to lower prices on all makes and models of our televisions just to stay in the business. But, lowering our prices was not enough -- as we reduced our

prices, Chinese producers would undercut our prices as the volume of imports continued to skyrocket. We experienced massive reductions in sales orders from our customers. These reductions severely impacted the entire television industry, as U.S. television manufacturers and their suppliers lost orders. Corning, Thomson, to name just a few, have stopped producing television glass and television picture tubes in the United States. Our company, as well as many others, was forced to lay off production workers and management staff.

In the end, we were left with two simple options: go out of business or try to fight the imports through the use of U.S. trade laws. So, in May 2003, we chose to fight to stay in business. Five Rivers joined with two unions, the International Brotherhood of Electrical Workers and the IUE/CWA, to file an antidumping petition with the U.S. Department of Commerce and the International Trade Commission in May 2003. According to a March 3, 2004 article in the People's Daily, the other multinational producers, such as Sony, Toshiba, Sanyo, refused to come forward to support this case, because, according to press

reports, they had been intimidated into silence by the Chinese Government.

In April of this year, the Commerce Department found that Chinese imports were being dumped and the International Trade Commission concluded that the U.S. television industry was being injured.

This decision we hope will once again turn the tide for our industry as a whole, and for our company in particular. Most of you have heard about potential changes in the TV industry, including new technologies and digital broadcasting. In the years ahead, we believe that the television industry will continue to evolve. We have the capabilities and plans to modernize to make direct-view LCD and plasma TVs, and projection, LCos and DLP TVs. If left unchecked, however, Chinese imports would certainly put an end to the U.S. television industry. The effective enforcement of our dumping laws can help to ensure that even small businesses like ours can compete with Chinese imports.

Thank you.



CITAC STEEL TASK FORCE

TESTIMONY OF WES SMITH, PRESIDENT
E & E MANUFACTURING, PLYMOUTH, MICHIGAN

BEFORE THE HOUSE COMMITTEE ON SMALL BUSINESS

“HOW CAN WE MAKE OUR TRADE LAWS WORK TO BENEFIT SMALL BUSINESSES?”

WEDNESDAY, JULY 14, 2004

Mr. Chairman and members of the Committee, my name is Wes Smith, and I am President of E & E Manufacturing in Plymouth, Michigan. I am appearing today on behalf of the Consuming Industries Trade Action Coalition Steel Task Force to discuss ways that the U. S. trade laws can be made to work better for consumers of steel and other types of raw material.

E&E is located in Plymouth, Michigan, and is a world-class leader in metal joining technology. It meets the needs of its world-class automotive customers by manufacturing heavy gauge stamped metal fasteners, progressive die metal stampings, and high value added assemblies. E&E was founded in 1963 by my father, and provides meaningful employment to over 250 dedicated employees. Steel comprises 50 percent of our total cost of producing these products.

E & E Manufacturing and our primary trade association, the Precision Metalforming Association, were very active supporters of the CITAC Steel Task Force in the recent battle over the Global Safeguard Tariffs on steel, and we are grateful that, with support from many on this Committee, they were lifted in December of 2003. And while I don't intend to rehash that issue today, the tariffs do serve as a good example of what we came to call the “collateral damage” that can occur to the economy when our trade laws get out of balance.

Let me state at the outset that we fully appreciate the need for trade remedy laws to protect U. S. businesses from unfair trade practices by foreign countries or producers seeking to gain access to the lucrative U. S. market. It is entirely appropriate that industries suffering from such conduct have recourse, and the recourse should be swift and predictable. However, all too often in our judgment, trade remedies intended to provide protection for one industry cause damage to other industries, particularly so-called “downstream” industries.

This is because our trade laws do not require, and in some cases do not permit, the Department of Commerce and the U. S. International Trade Commission to consider the total effects of trade policy decisions on the overall economy.

Increasingly, U. S. manufacturers are struggling to compete in the global economy—and low wages in foreign countries is not the sole reason. Higher costs in the U. S.—many of which are government imposed—are forcing some manufacturers to locate offshore in order to remain competitive. Others, without the flexibility to locate production outside the U. S., compete as best they can until they finally close their doors.

It's tempting to blame "unfair foreign competition" for this problem, but that's an excuse, not a reason. I believe my company can compete with anybody in the world, given a level playing field.

And that term, "a level playing field", is like a coin with two sides: it means protection from unfair trade practices by offshore competitors, but it also means protection from unintended consequences of U. S. policy.

Let's take the case of steel, which is the primary raw material input for my company, amounting to about 50% of my total cost of production, on average. What we need, and what all U. S. steel-consuming manufacturers need, is access to an adequate, stable supply of globally priced steel. I don't want to pay any more for steel than necessary, but the actual cost is less important than whether I can buy steel for the same total cost as my foreign competitors. If I can, then I can use improved productivity, better tooling design and automation to offset other disadvantages such as wage rates. If not, then I am at a fundamental disadvantage, and because steel is such a big part of my cost, I cannot overcome the difference.

When the Global Safeguard tariffs were put in place in March of 2002, the International Trade Commission staff analysis, which formed the basis of the recommendation to the President, was that 40 percent tariffs on imported steel would result in steel price increases of 4 to 8 percent. Mr. Chairman, I'm not an economist, but given that the U. S. steel industry produces only about 75-80 percent of the total steel consumed in this country, it is hard to imagine how anyone could conclude that imposing a 40 percent increase in the price of imported steel would not have a far greater impact than 4 to 8 percent.

In fact, as we now know, prices shot up 40, 50, 60 percent in some cases. Steel was hard to get, contracts were broken, and the steel-consuming industries suffered far more negative consequences than anyone anticipated.

And in fact, we are still suffering from the effects of the tariffs, some 7 months after their removal. Current prices for steel in the U. S. are higher than virtually anywhere in the world, due in part to the disruption caused by the tariffs, and delivery schedules are substantially longer than normal. If this situation persists, it will lead to increased offshoring of U. S.-based manufacturing.

So what can we do to avoid these effects? In our view, we must find the balance between providing protection for U. S. industries facing unfair foreign competition and making sure that the protection does not create more economic damage than good.

Specifically, we suggest that:

- U. S. trade laws should require an analysis of the total impact of any decision on the overall economy, including any "downstream" impacts;
- Industrial consumers of a product should have equal standing with domestic producers and importers in trade cases;
- Products that are not made in the U.S., or are in "short supply", should not be subject to trade remedies.

-- Finally, when trade remedies are implemented, there is virtually no opportunity for those remedies to be altered in an expedited fashion if a changed circumstance occurs. This means that if there are unintended consequences, the industries negatively affected by those remedies must suffer far too long before changes can be made. For this reason, we believe an expeditious review mechanism for affected industries would provide a timely remedy against the unintended consequences of trade remedies.

In short, the CITAC Steel Task Force believes that access to an adequate, stable supply of globally priced raw material is critical to the ability of U. S.-based manufacturers to compete globally. Making sure that our trade laws protect those who need it without causing unintended "collateral damage" to other parts of the economy would help provide that access.

Thank you for the opportunity to appear before you today. I would be happy to respond to your questions.

Thank you, Mr. Chairman and Members of the Committee for the opportunity to speak with you about critical trade policy issues. I am the owner of a small business, Bartlett Manufacturing Company, located in Cary, Illinois, a suburb of Chicago. Our company produces printed circuit boards, which are a key building block of the American electronics industry.

I am a graduate of the United States Naval Academy and served as a Captain in the United States Marine Corp during President Reagan's term first term in office.

Following my military service, I joined the family business that my father started in 1952. Our company is the oldest family-held printed circuit board business in the country. My 20 years in this industry have enabled me to learn the business from shop floor to the president's office. In addition, I have worked with many of my competitors to strengthen the U.S. PCB industry as a whole.

In 1987, along with three colleagues, I founded the Chicagoland Circuit Board Association.

In 2003, I became a founding director and a significant force behind the formation of the United States Printed Circuit Alliance. This alliance has a mission of revitalizing the national printed circuit board industry, and has already recruited more than 50 members to date. All the members of both organizations are small to mid-size domestic companies. I am here today representing these organizations' views as well as my own.

The printed Circuit board industry, like the semiconductor industry, is the heart of the electronics industry. The PCB is the mounting platform and the interconnecting device that literally makes electronic components function. Without the PCB, an electronics assembly is just a bag of parts incapable of doing anything. Just as important, the PCB, like a semiconductor, is a blueprint for how a device works.

Everyone understands the importance of electronics in our world today. Still, it is vital to emphasize that electronics is critical to the future of U.S. manufacturing. Even more important, a vibrant domestic electronics industry is essential for maintaining U.S. security at home. Yet the American electronics industry is also under attack from abroad and is being soundly defeated at home. The attached graphs show the recent deterioration of my company, companies in California and the domestic PCB industry.

The PCB industry in the United States did not see a minor recession, it went through a very dramatic downsizing over the last three years.

Bartlett revenues and employment. Revenues for Bartlett declined from approximately \$20 million in 2000 to just over \$9 million three years later. We cut employment from 140 to 93 over the same period. Although electronics is considered a high tech industry, Bartlett and other PCB makers are often criticized as lower-end electronics producers. And we have been vulnerable to low-cost offshore manufacturers. (enclosures 1 & 2)

But a closer look at the industry reveals much more disturbing trends.

California revenues and employment. California is a center of high end PCB production. Yet as the data shows, California's PCB production has declined from an annualized rate of \$2.7 billion to approximately \$1.2 billion. Employment in the state is down by more than 50 percent, to just under 9,000. (enclosures 3 & 4)

National revenues and employment. United States PCB production, shows the same alarming pattern. Annualized sales have gone from approximately \$10 billion in 2000 to just over \$5 billion in 2003. Many estimates indicate the level is really as low as \$4.5 billion, due to U.S. manufacturers reselling offshore production and booking it as production revenues instead of commissions. It is estimated this reselling amounts to 10-20 percent of production revenues. North American employment levels have fallen from 78,000 to 42,000. (enclosures 5 & 6)

As is obvious from these figures, the decline of the industry is not limited to one company, state, region, or product segment. The industry did not forget how to produce a quality product at a realistic price in 2001 nor did it lose just the low-tech sector. So what happened?

Clearly, the turn of the century witnessed the bursting of a technology bubble. In addition, the events of September 11th affected not only the electronics industry but the entire economy. In the PCB industry, however, the greatest damage came from low-cost product becoming available in the United States with acceptable quality and delivery. Although the industry has competed with foreign producers in the past and prospered, the huge price advantages offered by Chinese fabricators in particular represented a wholly new threat: comparable products at half the price. More important, this advantage is not solely or even mainly the result of market forces. It stems significantly and directly from various Chinese government subsidies, ranging from currency manipulation to explicit export subsidies. In high tech industries, low cost labor alone can not create such price advantages. And no amount of ingenuity or proximity to market on the part of domestic PCB companies or their workers can offset these Chinese government practices.

The implications are clear: China is using predatory trade practices to destroy our PCB market. And because of Washington's indifference – and sometimes encouragement – China is succeeding.

Example: Sonabuoy

Bartlett Mfg. has produced PCB's for the sonabouy market. These devices are used by our military to detect and track submarines and are clearly vital for national security. Bartlett has been involved with this contract for approximately 15 years and has been competitive and effective in the support of this product. Most recently, we were informed that our prices had become uncompetitive. We were given "off shore" pricing. My long experience in the business tells me that these prices could be established only in China or other similar S.E. Asian country. We are also told that the customer who supplies the U.S. military would like to work with us but that the contract was won on a very competitive basis and our current pricing would not allow us to retain the contract. Enclosed is a comparison of our prices against what we believe are Chinese prices. When adjusted for currency manipulation and manufacturing export subsidies, Bartlett is competitive. (enclosure 7)

The concerns for national security should be obvious.

At a time when the U.S. government is rapidly and carelessly opening the U.S. market to any and all foreign competition, the Chinese government is targeting electronics manufacturing with brazenly protectionist policies and effectively destroying the industry in the United States. Thoughtless U.S. trade policies are forcing our private sector industry to compete against heavily subsidized competition – i.e., a foreign treasury. And let me remind you – Chinese foreign currency reserves have risen to nearly \$500 billion. How can any U.S. company or industry keep its production in the United States and win? The answer is "We can't."

Companies conduct business based on the rules laid out for them. When trade is involved, the effective rules are written by two parties; the export country and the import country. Today the rules are such that we encourage our large corporations to move off shore to take advantage of low cost production sites and tax advantages while at the same time are allowed to sell in the high profit market. We encourage our larger businesses to move overseas in order to maximize profits. And we pursue these policies with complete disregard not only for their long-term economic effects, but for their effects on our national security.

In many ways our government should be run like a business. We need business leadership. We need to balance our revenues with our expenses and we need to have positive cash flows. Congress needs to keep results in mind more than specific procedures. The end results are what is needed.

When domestic industry and the nation at large was briefed on recent and current trade policy initiatives, we were told that we would give up less valuable jobs but wind up creating more valuable jobs – as well as

increased exports due to newly opened foreign markets. We can spend all day arguing the effectiveness of the process and of specific trade laws, but the results should be clear to all. For many critical domestic industries, for millions of American workers and their families, and for our national security, they have been a dismal failure.

The results for our national finances have been similarly dreadful. I know that the trade deficit figures often make the eyes of American leaders glaze over. But as a businessman, I look at the rapid, unprecedented widening of our trade deficit with alarm – and you should, too. This loss of cash flow can not be sustained at its current level of acceleration.

In preparation for this testimony, I was asked to identify what U.S. trade law has actually benefitted our industry or could benefit it. My answer: I am not aware of any.

And although some examples might be uncovered, my own experience as a small business owner tells me quite clearly that they're minor exceptions. After all, small to mid-size business owners normally run their own business themselves. They are very much hands-on leaders, and their jobs are more than full time. These owners establish goals that not only provide them an income and provide a company profit, but they also establish goals that provide for their employees and society they are working in. Small businesses are in a much different position than, say, General Electric. We do not have a full time staff to work on Capital Hill and stay informed about every piece of new trade legislation and every new wrinkle in trade law. Small to mid-size business owners do not know trade laws. And the U.S. government does nothing actively to explain trade options to these business owners.

Therefore, I recommend the government take more time to keep companies like mine up to date on our trade laws options. Yet even with this change, when trade rules are violated, would small and mid-size businesses really be able to secure relief? Sadly – and inexcusably – no.

As an example, I was informed by the director of the United States Printed Circuit Alliance about the trade law safeguards provisions that can be applied to industries that have been dramatically and rapidly affected by surges of imports from China. From the data presented earlier it is clear the PCB industry has a strong safeguards case. Yet I and my colleagues quickly ran into two big obstacles to pursuing a safeguards case.

First, trade actions take a long time to come to a conclusion.

Second, trade actions take significant sums of money to complete.

Even with better and timelier government information, the time and money needed to prosecute trade cases is usually prohibitive not only for single companies like ours, but often for entire industries like ours. This is especially true given the often-long odds against winning. Public officials and politicians need to remember: Deciding to spend money on a trade case is like making a big investment for a small to mid size business. You need a reasonable assurance of a good return. The risk-reward ratio has to be right. For companies and industries like ours, too often, this ratio is all wrong.

This problem is especially important in safeguards cases. After all, safeguard provisions were put into our trade agreements to help companies respond to rapid import damage – to sudden change. But our trade law machinery doesn't work rapidly at all, and the lawyers needed to work it well are very expensive. And then we run into a third big problem: In the end the WTO would almost certainly reject the position and in the unlikely event the WTO did support it, China would challenge the action, and drag out the time and costs still further. There is very little reason for a small company owner to risk his funds and time for such a small chance in taking this trade action.

There are many areas where trade laws need to be strengthened. But let me start with one recommendation that could support my industry right now: Congress should require that all circuit boards purchased by federal, state or local entities with U.S. taxpayer money be manufactured by facilities in the United States. It's time to start using the Buy American laws already on the books much more effectively, closing most loopholes and waiver options. And it's time to start increasing the required Buy American percentages.

In addition, safeguard procedures must be greatly simplified and expedited to make them more user-friendly for small and mid-size companies. Such changes could allow the printed circuit industry to find a way to survive the current pricing attacks that are supported by foreign governments, in particular, China.

Still, as I suggested above, those pushing stronger trade law remedies or their more frequent use need to understand the towering obstacles to these goals that have been created by the new governing body for global trade, the World Trade Organization. The WTO has an agenda sharply at odds with U.S. trade policy interests. This organization is not akin to an American court of law. Rather, like all international organizations, it is a political organization. And its roughly 150 member countries have an overriding interest in keeping the U.S. market much wider open to their exports than their markets are to U.S. exports. Worse, thanks to the organization's one-country, one-vote system – which the United States has not agreed to in any other significant international organizations – the WTO protectionist majority has a powerful tool for getting its way.

The bottom line: Our independence as a trading nation is dramatically weakened by the WTO. We should either secure fundamental reforms in the organization that give America the authority it deserves by virtue of its role and the world's largest and most open economy (as in the U.N. Security Council), or we should withdraw and regain our independence as a trading nation.

But as stated earlier, we must focus our efforts on results and spend less time struggling with the methods. The United States has established itself as a free trade market. Yet most of our trading partners have used a broad array of subsidies and tariffs to keep our products out of their markets and gain undeserved advantages in U.S. markets. We turn cartwheels attacking individual predatory practices and, before we know it, a new one is instituted that is as effective or more effective than its predecessor. This is a mug's game and a waste of valuable time and resources.

We should take actions that we bring trade into much better, more sustainable balance. These actions should be taken independent of the WTO, if need be; above all, they must be taken soon. Washington must combat subsidies effectively by transferring the value of these subsidies from foreign manufacturers to the U.S. Treasury. This can be done by requiring trade to balance within a small percentage between the two countries. Either they buy more or we buy less.

Rapid action is also needed to protect U.S. intellectual property rights. As a country we can compete against low wages to some degree by using our ingenuity. When countries disregard these rights, swift and effective action need to be taken against them. We can not stop them from stealing our designs, producing and consuming them in their own country. We can however stop them from exporting these products and other products into our country.

In summary, I am a free market supporter and a free trader, but not a blind free trader. I believe in free, fair and balanced trade. I am amazed by how many Americans refuse to even talk about tariffs and subsidies or any types of truly effective trade policy tools when many of our trading partners use them routinely. Since the 1970s, both American political parties have pursued free trade policies that are undermining domestic manufacturing. This has resulted in the "real wages" of our workers being only 93% of what they were when we went to a "free trade" policy. The trade deficit is worsening rapidly as we rapidly expand our free trade agreements with the rest of the world. This can not be sustained at this accelerating rate for more than a few more years.

As a small businessman I feel like I am in a 100 yard dash with China. My own government wants to help China out by building them new training facilities (US corporations moving facilities to China) so they can train better. We also provide them with the best trainers and training techniques (U.S. corporations moving managers and engineers to China). Although I am not crazy about this idea, as an American runner I still have my ingenuity and hard work ethics that will allow me to compete (intellectual property rights). But when I get to the race I find the Chinese runners are allowed to start on the 40 yard line (Chinese currency manipulation and other subsidies).

When I meet you at the finish line, do not expect me to be the winner, do not expect me to show up at the next race, and do not tell me how I need to try harder. These kinds of artificial, government-provided advantages can not be overcome with even superhuman effort.

We must shift from a trade policy that looks only at “free trade” to one that is “free, fair and balanced.” At this time the fix is on and we can not win.



Testimony of

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before the

House Committee on Small Business

on

Trade Fairness Hearing:
How We Can Make Our Trade Laws Work for
America's Small Businesses?

July 14, 2004

Mr. Chairman. Members of the Committee. It is an honor to appear before you this morning. The subject of your hearing is extremely important, not only to the members of the United Steelworkers of America, but to all Americans.

Mr. Chairman, clearly our trade policy is in dramatic need of reform. Trade deficits of roughly one-half trillion dollars a year are not a sign of "success" as some free trade ideologues want people to believe. The continuing sea of red ink is an indicator of an economy, and a trade policy, that isn't working. Our farmers, workers and businesses produce some of the most competitive products in the world. Yet, they find barrier after barrier placed in their way as we try to export; and as the most important economy in the world, other nations constantly test our trade laws and our trade law enforcement infrastructure to see what they can get away with.

As you know, they've been able to get away with far too much. Imports flood our market while market opportunities for our products are severely limited.

Take China, for example. Last year our trade deficit was \$124 billion. Based on Department of Commerce analyses, each \$1 billion in trade deficit equals roughly 9,500 jobs lost. Thus, last year, America was "robbed" of almost 1.2 million jobs. That's not a sign of success, in my opinion.

Sure, while jobs are lost, some are created as well. But the data clearly shows that the jobs that are being created generally pay only a fraction of the wages that the workers' previous job paid; and they often lose benefits – health care and pensions. That's just unfair.

But, something has also changed in recent years. Years ago, the workers in my union were on the front lines in the trade battle. Pundits and others talked about "Rust Belt" industries as if they were dying and unimportant to our country and our economy.

You know different. These jobs and these industries are vital to our economic and national security. When Bethlehem Steel went into bankruptcy, it put at risk the last armor-plated steel production facility in the U.S. That's the specialty steel we use to protect our men and women in uniform as they protect our nation on the seas in our warships and on land in tanks, APCs and other vehicles.

Today, though, companies and workers all across the country are facing a new challenge: outsourcing. While the head of the President's Council of Economic Advisors has stated that outsourcing is good, I don't believe that most Americans and most communities share his view. Their lives and livelihoods are at stake. And, for consumers, the quality of the services they seek and the privacy they want to protect are also at risk.

Mr. Chairman, you know this. Your Committee, in holding this hearing wants a discussion of ways our trade law can be improved to promote U.S. small businesses, for

example, by lowering overseas barriers and reducing unfair foreign government practices.

First, Mr. Chairman, is to ensure that our trade laws aren't traded away. They are the last refuge for too many companies and their workers. We don't resort to the use of these laws as the first line of defense, but they are instrumental as a last line of defense.

Congress has made it clear, on numerous occasions and in numerous ways, that it doesn't want our laws undermined. Yet, the President's USTR has been willing to discuss our trade laws and how they might be changed. He claims that it's only a discussion – but once you open the door, you've raised the hopes of our trading partners and put our trade laws up as a negotiating chip; and how many times have we been told that something is non-negotiable only to find that it ends up in the final agreement?

That's unacceptable and I would urge, as a first act, that this Committee and this Congress, make it clear that it will not accept any steps that water down our trade laws.

Let me be clear, the Steelworkers represent workers all across this country in large *and* small companies. When it comes to trade policy, we're all in this together.

Second, our trade laws are extremely expensive to use. In our union, we know that firsthand as we had to look at a go-it-alone strategy to fight foreign unfair trade practices devastating our industry. Luckily, the steel producers joined in our efforts and together we were able to wage an effective campaign to get some, albeit limited, action on the steel issue.

But, how many small businesses have to fold up their tent because they simply can't afford the counsel, legal costs and wait for an uncertain result? Something must be done to make sure that every company has access to the counsel they need and deserve.

The Commerce, Justice and State Department Appropriations bill passed last week includes a committee recommendation that the International Trade Administration begin tracking and report on inquiries from small- and medium-sized businesses for getting help with enforcement of antidumping law against imports, including those from China and India. That report is due within 30 days of enactment of the bill.

That's a start. But, it needs to be broadened to include all other inquiries that come to the government agencies responsible for trade policy. Access to counsel should not be a determinant of whether you have access to foreign markets or whether you have the wherewithal to fight predatory trade practices.

We should also examine ways of providing basic counsel in the government to these small businesses. How the law works, how to file a claim, how to press forward. And, as appropriate, having the government litigate the case.

Third is to provide confidence that, if you fulfill the requirements of the law and receive a

favorable determination, that the White House won't turn their back on you.

That's happened on too many occasions. For the basic steel industry, we saw the President lift the relief provided by the tariffs on steel under the Section 201 case.

But for smaller companies, they have faced similar rebukes. On three occasions, small businesses sought relief from a flood of imports coming from China. They sought relief under Section 421 of the trade law – a provision that was specially negotiated as part of China's accession to the World Trade Organization. The provision was agreed to by China to address surging exports to the U.S. market.

Three times, for three different industries made up of small businesses, the International Trade Commission found injury and recommended relief. In each case, President Bush said no – it's not in our interest.

He refused to help a company in New Jersey that makes pedestal actuators – a key component for wheel chairs, despite surging imports.

He refused to help the wire garment hanger industry – and key manufacturers in Ohio – against skyrocketing Chinese exports to our shores.

He refused to follow the ITC's recommendation that relief be provided for ductile iron waterworks fittings producers, with one company having a major production facility in Ohio. This is against a backdrop of devastating job losses in community after community all across that state.

In all three cases, he was wrong on the merits. But, let's understand that the President's actions may send a chill out through the market that, even though Congress passed laws to ensure the rights of our companies, that you might as well give up.

Fourth, small businesses are typically the first to be devastated by government subsidization. The WTO doesn't require that we ignore subsidization by governments simply because they are non-market economies. United States' law should be modified to give small businesses the ability to get relief from such subsidy practices; and of course, should be expanded to cover all businesses.

On this point, let me acknowledge the leadership that Congressman English has shown in introducing legislation to allow for countervailing duty measures on imports from Non Market Economies (NMEs). Congress should act quickly to pass his legislation.

Fifth, our law should be modified or regulations adopted to make clear that, consistent with Article VI of the GATT, currency under-valuation is actionable under U.S. antidumping and/or U.S. countervailing duty law. The currency manipulation by China and other trading partners has had a devastating impact on our companies. Yet, this Administration refuses to

even identify them as manipulating their currencies in U.S. Government reports.

The manipulation of their currencies robs us of opportunities in their markets and allows them to under-price our products in our own markets. This has got to change.

Sixth, U.S. producers face twin distortions in global competition with most of our major trading partners as they are allowed to deduct VAT-type taxes upon export (whereas direct taxes as applied by U.S. are not deductible on export) and U.S. exports face the addition of VAT taxes upon importation, essentially resulting in a 10-20% additional charge on U.S. exported goods. The irrational preference for indirect vs. direct taxes skews dramatically the competitive marketplace for small, medium and large businesses. The U.S. must make a priority the elimination of this distortion within domestic law and with the international rules.

Seventh, the U. S. must refuse to bow to requests from China that we consider them to be a "market economy". In the WTO accession agreement, we negotiated on this matter and the Chinese already want to change the terms of trade. We can't bow to their requests.

Mr. Chairman, these are but a few of the many, many steps that the Steelworkers believe are necessary to level the playing field and to ensure that we get a fair shake in world trade. We look forward to working with you and the Members of the Committee in the coming weeks on this important topic.

I will be happy to respond to any questions.

